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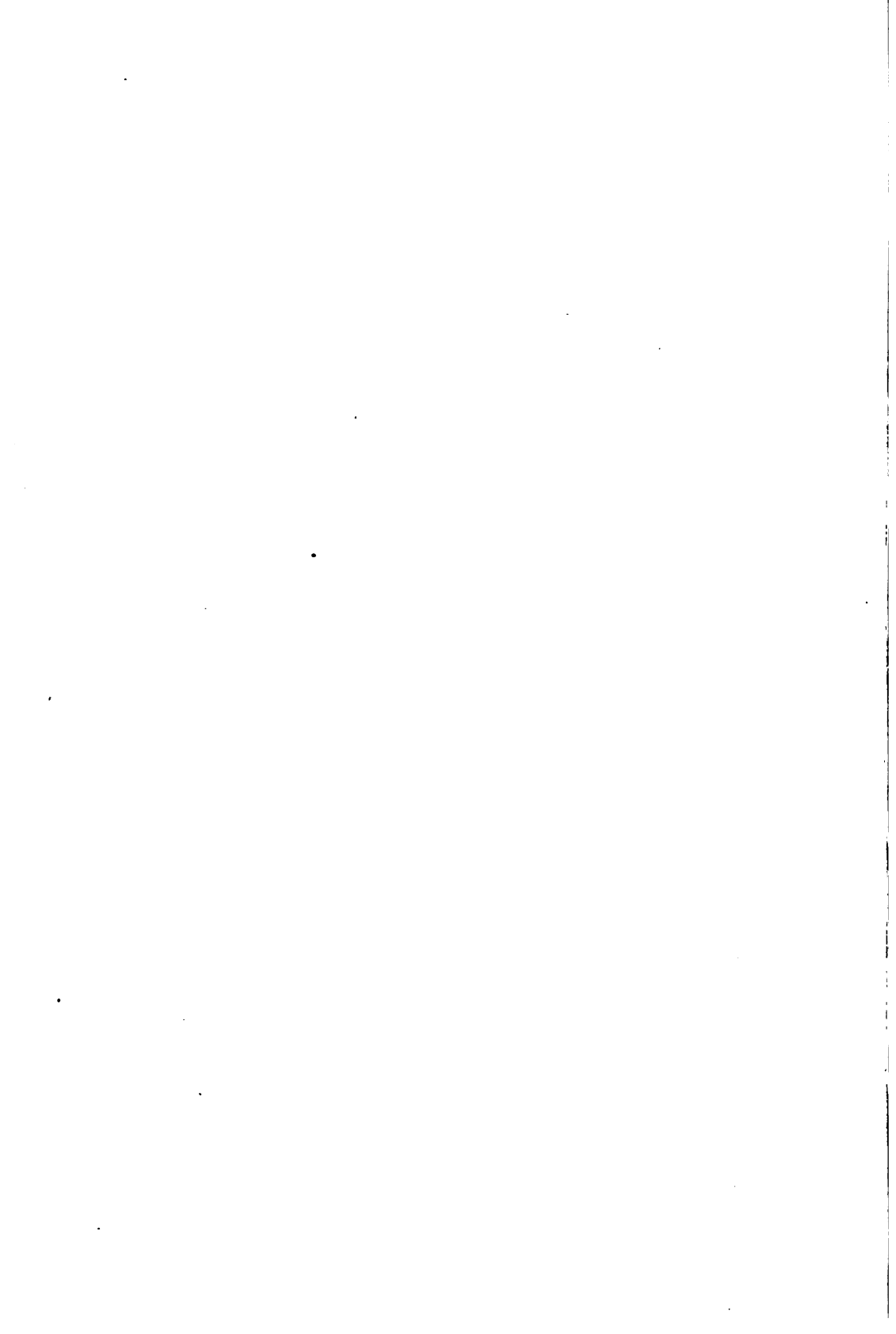
*The Society*











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**Publication No. 98**

**Transactions**

**Annual Reports**

**of**

**The Western Reserve Historical  
Society**

**Organized 1867  
Incorporated 1892**



**1918**







Publication No. 98

TRANSACTIONS

# THE WESTERN RESERVE SOCIETY HISTORICAL

HON. GEORGE FOREMAN ROBINSON  
Life Member of The Western Reserve Historical Society  
Issued August, 1918

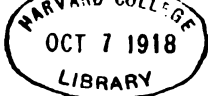
Articles of Incorporation  
Officers—Membership

Annual Reports for 1917-1918

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CLEVELAND, OHIO  
1918





*The Society*  
ARTICLES OF INCORPORATION

2

## STATE OF OHIO

## These Articles of Incorporation of

## THE WESTERN RESERVE HISTORICAL SOCIETY

*Witnesseth*, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation not for profit, under the general corporation laws of said State, do hereby certify:

**FIRST.** The name of said corporation shall be The Western Reserve Historical Society.

**SECOND.** Said corporation shall be located and its principal business transacted at the City of Cleveland, in Cuyahoga County, Ohio.

**THIRD.** The purpose for which said corporation is formed is not profit, but is to discover, collect and preserve whatever relates to the history, biography, genealogy and antiquities of Ohio and the West; and of the people dwelling therein, including the physical history and condition of that State; to maintain a museum and library, and to extend knowledge upon the subjects mentioned, by literary meetings, by publication and by other proper means.

*In Witness Whereof*, We have hereunto set our hands, this seventh day of March, A. D., 1892.

Henry C. Ranney,  
D. W. Manchester,  
Amos Townsend,  
William Bingham,

Charles C. Baldwin,  
David C. Baldwin,  
Percy W. Rice,  
Jas. D. Cleveland,

A. T. Brewer.

# The Western Reserve Historical Society

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### *President*

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### *Vice President and Director*

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### *Honorary Vice Presidents*

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JACOB B. PERKINS

### *Secretary*

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### *Trustees*

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C. W. BINGHAM

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D. Z. NORTON

### *Committee*

CATHCART

H. B. W. E.



*The Society*

ARTICLES OF INCORPORATION

2

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Jas. D. Cleveland,

A. T. Brewer.

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## LIBRARY STAFF

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ALTA BLANCHE CLAFLIN.....	<i>Cataloguer</i>
ANNIE J. OLDHAM.....	<i>Assistant Cataloguer</i>
MINNIE L. BUSHFIELD.....	<i>Reference Assistant</i>
JESSIE M. ALLEN.....	<i>Assistant</i>

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J. B. PIERCE.....	<i>Custodian</i>
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The Society consists of three classes of members.

- (1) Annual or Sustaining members have full privileges, use of library, all publications, annual fee is ten dollars.
- (2) Controlling members, who alone have the voting franchise, are life members, fee two hundred dollars (one payment), and Patrons, fee five hundred dollars.
- (3) Honorary and corresponding members are chosen by vote of the Trustees.

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*Sandusky, Ohio*
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H. A. Fuller
- \*Deceased



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James R. Garfield  
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*Ann Arbor, Mich.*  
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*New York City*  
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\*Samuel L. Mather  
\*Herbert McBride  
\*John Harris McBride  
\*Leander McBride  
W. S. Metcalf,  
*Chardon, Ohio*  
\*Lewis Miller,  
*Akron, Ohio*

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\*Deceased

Otto Miller  
 Wm. C. Mills,  
*Columbus, Ohio*  
 William H. Miner,  
*St. Louis, Mo.*  
 \*James Monroe,  
*Oberlin, Ohio*  
 E. W. Moore  
 \*Edmund P. Morgan  
 \*George W. Morgan  
 \*William J. Morgan  
 Miss Mary L. Morse,  
*Poland, Ohio*  
 \*George Mygatt  
 \*Eben Newton  
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 \*George W. Pack  
 Charles A. Paine  
 James Parmelee  
 Eugene H. Perdue  
 \*Edwin R. Perkins  
 \*George T. Perkins,  
*Akron, Ohio*  
 Jacob B. Perkins  
 \*Joseph Perkins  
 \*L. Lewis Perkins  
 William A. Price  
 \*William H. Price, Jr.  
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 \*Rufus P. Ranney  
 Rollin T. Reefy,  
*Elyria, Ohio*  
 \*Harvey Rice  
 \*Percy W. Rice  
 Franklin M. Ritzel,  
*Warren, Ohio*

\*Deceased

Mrs. Maria D. Rives,  
*Hillsboro, Ohio*  
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*Ravenna, Ohio*  
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 \*Worthy S. Streator  
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 Daniel R. Taylor  
 \*Robert W. Taylor  
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*Hillsboro, Ohio*  
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 \*John Tod

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| Lyman H. Treadway           | E. M. Williams          |
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| *Mrs. Mary McArthur Tuttle, | *Samuel E. Williamson   |
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| *Miss Sarah Walworth        | <i>Willoughby, Ohio</i> |
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| *Horace P. Weddell          | <i>Oberlin, Ohio</i>    |
| *Charles Whittlesey         |                         |

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| H. G. Baldwin        | T. H. Brooks           |
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| Warren Bicknell      | Frank C. Caine         |
| Frank Billings       | W. C. Caine            |
| William Bingham, 2nd | G. D. Cameron          |
| Geo. T. Bishop       | Gray Casement          |
| M. F. Bixler         | W. T. Cashman          |
| Morris A. Black      | F. M. Casto            |
| D. S. Blossom        | D. J. Champion         |
| Ben P. Bole          | W. P. Champney         |

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\*Deceased

G. N. Chandler  
John C. Chandler  
N. D. Chapin  
Andre T. Chisholm  
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J. A. Coakley  
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Wm. Collins  
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A. T. DeForest  
B. Dettelbach  
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J. J. Parker  
Proctor Patterson  
Hosea Paul  
G. H. Peters  
John Phillips  
Henry F. Pope  
Charles T. Pratt  
Chas. H. Prescott  
W. H. Prescott  
W. A. Price  
C. R. Putnam  
F. A. Quail  
B. D. Quarrie  
W. H. Quinby  
Mrs. Cornelia M. Rees  
Walter J. Rich  
F. B. Richards  
W. C. Richardson  
Louis Rorimer  
Geo. S. Russell  
J. A. Rutherford  
Wm. B. Sanders  
Henry L. Schuler  
Frank R. Scofield  
F. A. Scott

J. K. Secor  
F. A. Seiberling  
C. A. Selzer  
A. D. Severance  
Belden Seymour  
Mrs. Charles J. Sheffield  
Henry E. Sheffield  
Henry S. Sherman  
Miss Clara Prentiss Sherwin  
John Sherwin  
George B. Siddall  
F. P. Smith  
Samuel Louis Smith  
A. B. Smythe  
Sidney Spitzer  
John J. Stanley  
Abraham Stearn  
F. A. Sterling  
A. L. Stone  
E. E. Stone  
C. B. Stowe  
H. W. Strong  
J. J. Sullivan  
W. C. Talmage  
A. S. Taylor  
V. C. Taylor  
W. D. Taylor  
F. H. Teagle  
Stephen W. Tener  
J. R. Thomas  
A. B. Thompson  
Thomas Wingate Todd  
S. H. Tolles  
F. W. Treadway  
B. C. Tucker  
Geo. D. Upson  
M. J. VanSweringen  
O. P. VanSweringen  
M. G. Vilas

Gustav Von Den Steinen  
John Whittlesey Walton  
A. R. Warner  
W. H. Warner  
C. G. Watkins  
J. H. Webster  
Geo. P. Welch  
S. T. Wellman  
John Wheeldon  
E. L. Whittemore  
Hugh B. Wick

H. C. Wick  
Elmer B. Wight  
E. P. Williams  
J. D. Williamson  
Myron H. Wilson  
Sidney S. Wilson  
George C. Wing  
P. H. Withington  
L. J. Wolf  
J. B. Zerbe

## DIRECTOR'S REPORT

TO THE BOARD OF TRUSTEES AND MEMBERS OF THE  
WESTERN RESERVE HISTORICAL SOCIETY:

*Gentlemen:*

In no one year has history been made as rapidly as in the one just past. The war, into which the United States was compelled to plunge, has been surging on, requiring the time and largely the means of all in order to prosecute it successfully. The vastness of the struggle, the unlimited resources of every kind required, the man power necessary to carry it on, has taxed us in every direction. Yet all these, as never before, show the absolute necessity of maintaining to the fullest extent all that pertains to the uplift of man in educational and allied interests. Never has there been a time when greater calls have been made upon the patriotism of this country. Never has there been a time when the needs have been felt more for enlarging and developing the institutions, whose functions are to preserve and make available all that has gone to make this Republic what it is.

The elements that have entered into its foundations, the developments of its institutions, the manner of life of its citizens, the ideals that have been formulated and made a part of our national existence—all these require careful interpretation and study.

It is peculiarly the function of societies of our type to make possible this careful study of America's history. In order to do this, vast quantities of source material must be painstakingly and diligently sought, brought together, and made available for the use of students of history and economics.

Feeling the importance of this, our own work has been pushed forward just as far as the time seems to permit. Our small staff, all eager to do their part, have worked to their utmost to make the work a success, and to keep the expenses to a minimum.



The war itself has entailed upon us increased responsibilities in preserving the ephemeral literature that may be had today and that tomorrow is practically lost. This work we have undertaken to do as well as our means will permit and some of the results are noted under the head of the library proper.

### MEMBERSHIP

The membership of the Society has shown a steady increase for the last three or four years, due largely to the personal efforts of our President. Although it is not by any means as large as is desirable, yet it is encouraging to feel that it is going ahead from year to year.

The membership this year stands at 47 patrons, 84 life members and 302 annual members, making a total of 433 members, an increase of 22 over last year.

Yet each year we are compelled to note with saddened hearts that death has invaded the ranks of our membership and has claimed here and there one who had been a loyal supporter of the work and upon whom we can depend no further.

We are pleased to note that some of the younger generation are taking up the burdens that their fathers were wont to carry, and I trust that as time goes on these younger men will realize that the work their fathers were interested in, is one worthy of their active support and generous assistance,

### NECROLOGY

Among the patrons of the society we are compelled to record the death of Colonel Oliver Hazard Payne, who died June the 27th, 1917. Five of our life members have been called home: W. S. Tyler, May 27, 1917, W. C. Scofield, July 6, 1917, Hon. Geo. F. Robinson of Ravenna, July 20, 1917, Harley Barnes, Painesville, October 19, 1917, and Leonard Schlather, April 19, 1918.





Among our annual membership Loftus Cuddy, E. Cushing, W. P. Murray, Martin Snider, and S. W. Wason have passed away.

### HARLEY BARNES

On October 19th, 1917, Mr. Harley Barnes, a life member of the Western Reserve Historical Society, passed away very suddenly at his home on Mentor avenue, Painesville, Ohio.

Mr. Barnes was born in Chester, Geauga County, March 6th, 1859. He received his education in the district school, and at Chester Seminary, and came to Painesville in early life, where he took up the study of law and was admitted to the Bar in 1888, following poor health, he never practiced. In 1890 he formed the firm of Barnes & Scott, in the Abstract business for Lake County. Later, in 1893, he organized the Realty, Title and Investment Company, and retained his interest in it until 1898. From 1890 to 1891 he occupied the position of County Recorder. He was one of the principal stock holders in the Painesville Real Estate Company which he formed in 1891. He was largely interested in forming the Dollar Bank of Painesville, and the Geneva Savings Bank of Geneva.

A prominent member of the Methodist Church of Painesville, Mr. Barnes was interested in all religious enterprises of his denomination, but more especially in Sunday School work.

On December 21st, 1883, Mr. Barnes married Miss Anna A. Gloin of Chester, who passed away in 1906. On October 4th, 1910, Mr. Barnes married Ethel Daughters, who with their little son Harley D., and a daughter of Mr. Barnes, Mrs. Jolliffe, of Painesville, survive him.

### WILLIAM ERASTUS CUSHING

In the death of Mr. Cushing, The Western Reserve Historical Society lost one of its generous supporters, and Cleveland, a distinguished citizen and lawyer, a

worthy scion of one of its oldest and most distinguished families.

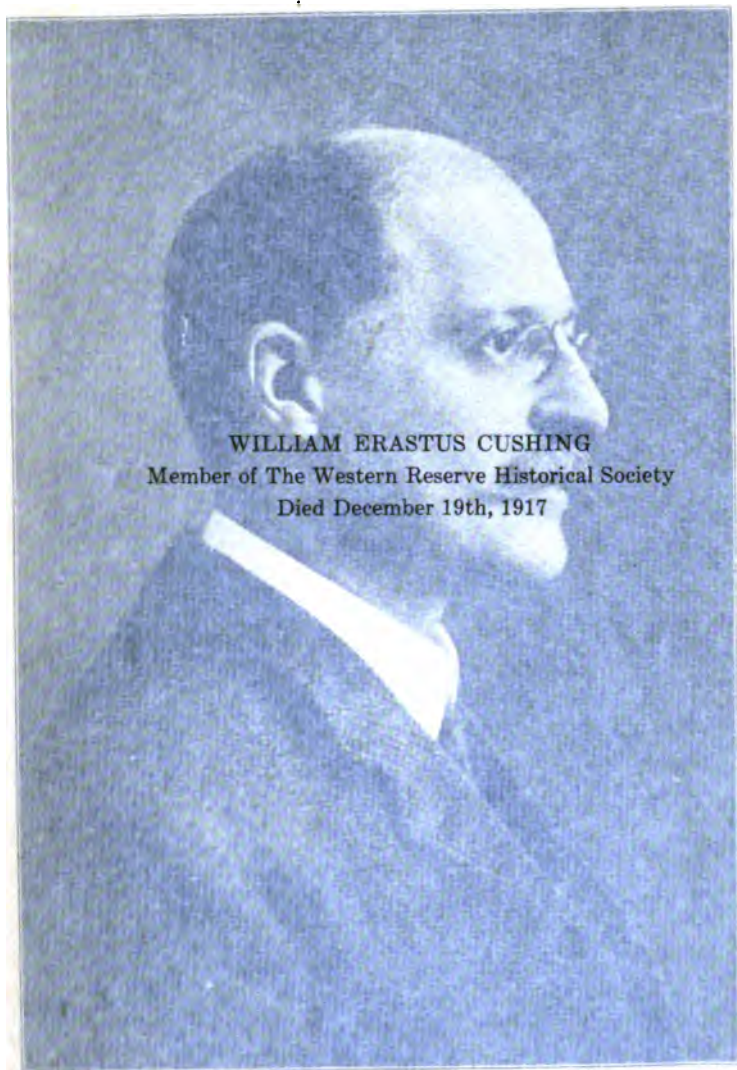
Dr. Erastus Cushing, the grandfather of Mr. Cushing, came to Cleveland when it was only a small village, and opened an office for the practice of medicine. He was succeeded by his son Dr. Henry Kirke Cushing, another eminent physician, who married Betsey Maria Williams of New York state. Nine children were born to them. William E., who was the oldest of the boys, was born in Cleveland September 23rd, 1853. His early education was obtained in the public schools of his native city, supplemented by a college education at the old Western Reserve College at Hudson, Ohio. He was graduated in 1875 with the degree of B. A., and honored with election to the Phi Beta Kappa Society. After completing a course at Harvard Law School, Cambridge, Mass., in 1878, he returned to Cleveland and formed a law partnership with the late Judge Samuel E. Williamson.

Preferring the office work of his profession to that of the Court Room he devoted himself especially to the study of corporation law, and became one of the best read lawyers of his state.

He never sought nor held public office, but his work as a member of the Committee of the American Bar Association on Uniform State Laws, will be of lasting benefit to the people.

Mr. Cushing was always generously helpful to the younger members of the Bar, and ready with counsel and assistance, even at the expense of great personal inconvenience.

As a lawyer, Mr. Cushing lived up to the highest ethical standards of his profession. No lure of profit or of place could tempt him to compromise with them for a moment, and he leaves the record of a professional life as high and spotless as it was devoted and learned and successful.



WILLIAM ERASTUS CUSHING

Member of The Western Reserve Historical Society

Died December 19th, 1917

## DIRECTOR'S REPORT

was his father, one of its oldest and most distinguished

Dr. Francis Cushing, the grandfather of Mr. Cushing, came to Cleveland when it was only a small village, and opened an office for the practice of medicine.

He was succeeded by his son Dr. Henry Kirke Cushing, another eminent physician, who married Betsey Maria Williams of New York state. Nine children were born to them. William E., who was the oldest of the boys, was born in Cleveland September 23rd, 1853. His early education was obtained in the public schools of his native city, supplemented by a college education at the old Western Reserve College at

Cleveland. He was graduated in 1875 with the degree of Bachelor of Science, and with election to the Phi Kappa Phi Honor Society.

After completing a course at the Law School, Cambridge, Mass., in 1878, he returned to Cleveland and formed a law partnership with Judge Samuel E. Williamson.

In addition to the office work of his profession to that of a law firm, Mr. Cushing devoted himself especially to the study of corporation law, and became one of the leading authorities of his state.

Mr. Cushing never held public office, but his services were called upon by the Committee of the American Bar Association for Uniform State Laws, will be of great benefit to the people.

Mr. Cushing was always generously helpful to the younger members of the Bar, and ready with advice and assistance, even at the expense of great personal sacrifice.

Mr. Cushing lived up to the highest standards of his profession. No lure of profit or ambition ever tempted him to compromise with them. His life gives the record of a professional man as it was devoted and learned.







He was a man of absolute integrity and high ideals, and those who were favored with his friendship counted it among their most precious possessions.

Although Mr. Cushing kept closely to the work of his profession, he found time to give valuable service in other connections; he was Trustee of the Society for Savings, The Western Reserve University, and the University School of Cleveland. He was not only a member and generous supporter of The Western Reserve Historical Society, but was frequently the means of bringing valuable additions to its collections. He held also membership in the Cleveland Chamber of Commerce, and in the New England Historical Society of Boston. He belonged to the Union Club, and to the Twentieth Century Club of Cleveland. He was a member and a trustee of the Old Stone Church.

Mr. Cushing married on June 4, 1884 in Pittsfield, Massachusetts, Miss Carolyn Kellogg, who survives her husband.

Mr. Cushing died suddenly on the 19th of December, 1917, at the age of 64 years.

#### JUDGE GEORGE FOREMAN ROBINSON

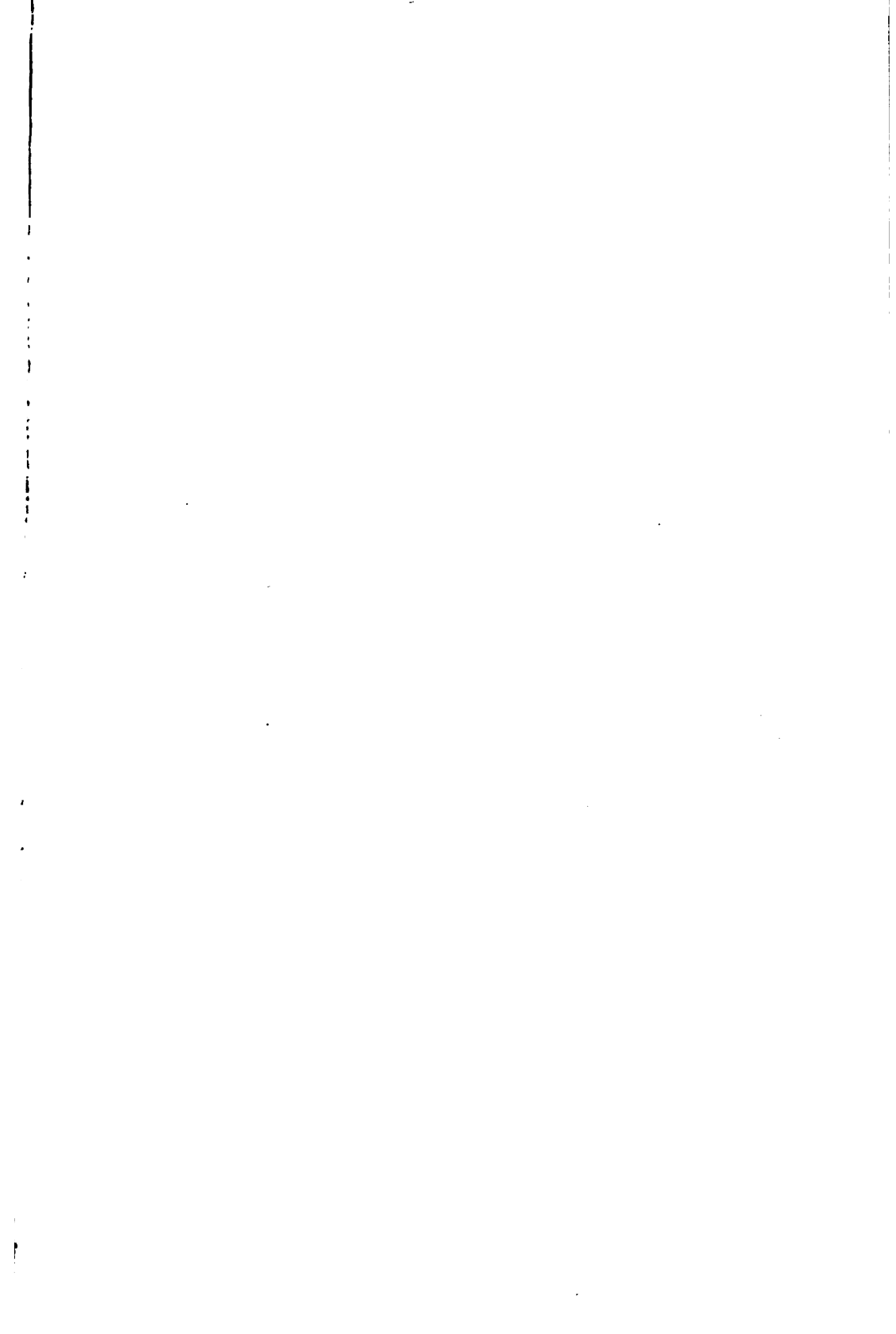
An honored and deeply interested life member was lost to our Society in the death of Hon. George F. Robinson, of Ravenna, who was called to rest July 23rd, 1917.

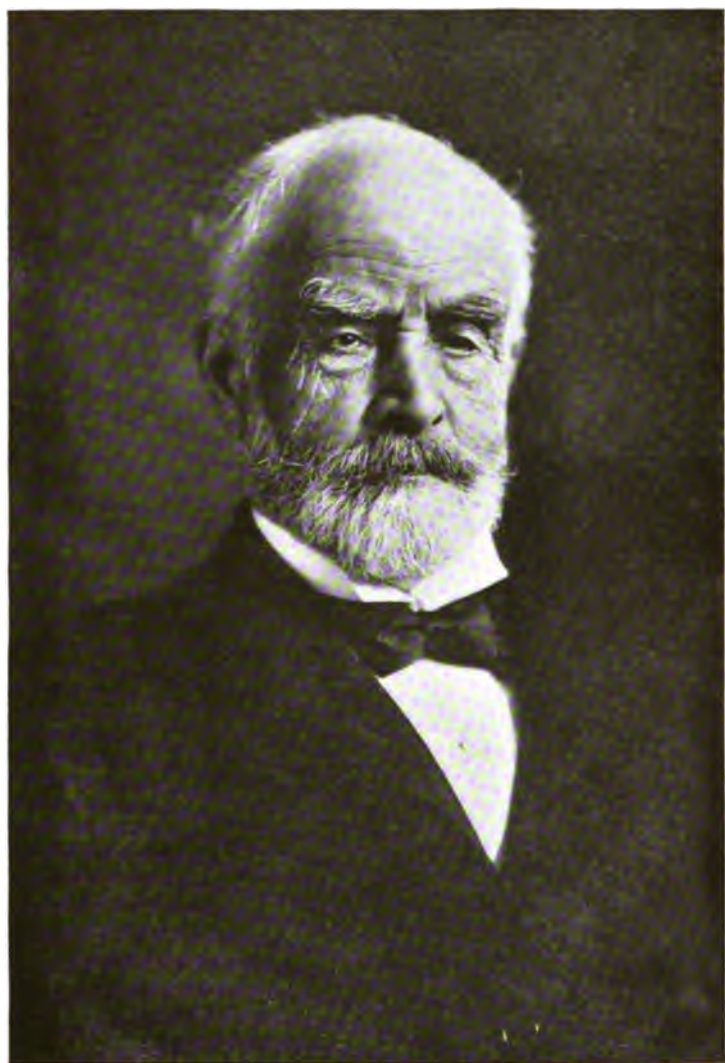
Judge Robinson was a profound lawyer and a judge whose fairness and clear interpretation of the spirit of the law was recognized by all. A veteran of the Civil War and always intensely patriotic, he was beloved, and now is mourned by all who knew him or came in touch with his many fine qualities.

Judge Robinson was born near Ravenna, Ohio, January 20th, 1844. His parents, George E. and Hannah (Johnson) Robinson, were then living on their farm just north of Ravenna. His early schooling, commenced in the public schools of Ravenna, was

abruptly interrupted by the call of President Lincoln for seventy-five thousand men, and although only seventeen years of age, Judge Robinson answered the call and enlisted as a private in Company F, 16th Ohio Volunteer Infantry on May 11, 1861. He was discharged August 22nd, 1861, on expiration of his term of service; re-enlisted December 22nd, 1861, as First Sergeant, Company E, 80th Ohio Volunteer Infantry; was promoted to Second Lieutenant, March 21st, 1862; to First Lieutenant, January 15th, 1863; to Captain, July 28th, 1863; and was discharged as a paroled war prisoner March 13th, 1865. He was with the 80th Ohio Regiment at Siege of Corinth; was under Grant in the Northern Mississippi Campaign, including the battles of Iuka, in the Campaign around Vicksburg, its siege and the surrender of the same. It was in the latter campaign he was wounded in the neck, and carried the bullet to his death-bed. He was wounded at Corinth, Miss., and again at Mission Ridge, Tenn., and here taken prisoner; incarcerated in Libby Prison, remaining there one year; was then removed to Belle Isle and later to Macon, Georgia, where he was kept until exchanged at Annapolis as a paroled war prisoner, a few weeks before the close of the war.

Judge Robinson immediately returned to his native town and took up the study of law in the office of Luther Day, then one of the Judges of the Supreme Court of Ohio, and was admitted to the bar. He took an active part in the politics of Portage County, serving as County Prosecutor for a period; also for several years was mayor of Ravenna. But other matters besides law and politics claimed his attention. He was an active member in both the Military Order of the Loyal Legion, and in the G. A. R. He served as President of the Second National Bank for several years, and was a member of Unity Lodge No. 12, F. & A. M.





Judge Robinson's clear legal mind made him sought on all sides, and it was not long before he became a judge on the Common Pleas Bench. For a little over twenty-nine years he served the people, who so eagerly loved him, faithfully and justly, covering the courts of Portage, Mahoning, and Trumbull Counties.

A careful and zealous student of history and of the past in literature at large, he gradually accumulated a library of the world's best thought, until it became one of the best collections in that section of the state. His interest in history and the recognition of the great need for the preservation of its sources led Judge Robinson to early become interested in the work of the Western Reserve Historical Society, and many of the Society's rarest historical treasures from Portage County came through his aid and influence.

It was a pleasure and a source of great inspiration to have known him. Extremely modest always, one had only to be in his presence for a short time to see the worth of the man, his great intellectuality, his kindly hospitality and lofty principles. The world is better for the life of such a man, and can ill afford to lose such.

Judge Robinson was married August 22nd, 1867, to Miss Mary Gillis, daughter of the late John Gillis of Ravenna, who survives him with their three sons, Harry M. Robinson, attorney, at Pasadena, California, Lieutenant Richard H. M. Robinson of New York, and Thomas M. Robinson of Youngstown, Ohio.

#### WILLIAM CHARLES SCOFIELD

In the death of Mr. William C. Scofield which occurred July 6th, 1917, at the exceptional age of fifty-six, The Western Reserve Historical Society lost one of its oldest friends as well as one of its life members.

Mr. Scofield was born October 25th, 1821, near the town of Wakefield in England. His early young

manhood was spent in Leeds, where he worked at the machinists' trade.

On nearing his twenty-first birthday, he determined to go to America. Here he found employment for one year at Chagrin River, then followed two years work as an employee in A. W. Duty's brick yard. These were followed by two years employment in the Sheriff's office as turnkey.

Soon after, he became associated with Messrs. Stanley, Wick and Camp in the Lard, Oil and Saleratus Works. This firm carried on the business until 1857, when Mr. Scofield bought out his partners and successfully conducted the business alone for five years. In 1861 he associated himself with Messrs. Halle & Fawcett and added the refining of oil to his other business. Gradually his business connections increased. In 1865 he became interested, in oil refining, with the firm of Critchley, Fawcett & Co., also as a partner in the firm of Hewitt & Scofield, New York, in the Oil Commission business, and was Vice President of the Cleveland Chemical Works. Still later in 1863 the firm of Alexander, Scofield & Company was formed to refine oil. In 1872 he organized the Lake Erie Iron Company, of which Company he was President for forty-five years. When the Union National Bank of Cleveland was formed we find Mr. Scofield's name as one of its organizers and also one of its directors for many years.

Thus briefly we have tried to sketch the business career of one of Cleveland's best citizens, one of that type of self-made men, who by their diligence and stirring qualities have helped to place Cleveland in the high place it so justly holds in this nation.

Mr. Scofield's home life was a most happy one. On December 1st, 1846, he married Miss Anne Barker, whose decease occurred August 13th, 1893. Some years later Mr. Scofield married Mrs. Ida Cobb.

Mr. Scofield's widow, three sons, Charles W. Scofield, Frank R. Scofield, and George F. Scofield,

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and three daughters, Mrs. Frank Rockefeller, Mrs. D. Edward Dangler, and Mrs. James H. Cogswell survive him. One son, Ezra B. Scofield, passed away just a few months ahead of his father.

### WASHINGTON S. TYLER

The President and founder of the W. S. Tyler Company passed away Sunday morning, May 27, 1917, at Hotel Statler, Cleveland, Ohio, where he and Mrs. Tyler had made their winter home.

Mr. Tyler, son of Royal W. Tyler and Fannie A. (Holmes) Tyler, was born April 12, 1835, in that part of Cleveland which is now known as the West Side, but then, as Ohio City. His schooling was obtained in the public schools, and at Bacon Academy, in Colchester, in the old state of Connecticut, where he was sent as a boy. At thirteen he gave up his school and took a position as clerk in the dry goods business in Hartford, Connecticut. On his return to Cleveland, at the age of sixteen, he entered the firm of B. J. Baldwin & Company, dealers in dry goods. Later, in 1872, he formed the W. S. Tyler Wire Works Company, of which Company he was active President up to a short time before his death, and even after he gave up his active connection, his counsel and direction were frequently sought. There is seldom an employer more beloved by all his employees than Mr. Tyler was; their interests were his, and early he established a profit sharing plan in which the employees, numbering over 1000, shared. His government over his assistants was always by kindness.

He was one of Cleveland's leading philanthropists. Many of the institutions that stand for the welfare and educational advancement of her citizens received his hearty support and wise counsel.

He was a life member of The Western Reserve Historical Society, a member of the Board of Trustees of Western Reserve University, the Children's Aid Society, Lakeside Hospital, Hiram House, the Old

Stone Church, and of the Workingmen's Loan Association, a Director of the Commercial National Bank, and a member of the Union, Clifton, Country, and Roadside Clubs.

Mr. Tyler married Marion A. Clark, daughter of James F. Clark, May 5, 1869, who survives him with their daughter Mrs. Elizabeth T. Miller.

## PUBLICATIONS

Last fall we published Tract No. 97, which embraced the annual reports of the Society, as Part I, and "Side Lights on the Ohio Company of Associates, from the John May papers," edited by Prof. E. J. Benton, as Part II.

It has been felt for some time that it would be better to divide our publication and have the reports of the Society issued separately from the balance of our publications. This is more in line with the method of publishing by the leading Societies, and also aids in the classification of material. Then again, the Director's report is read on the first of May and if not published until November, it leads to confusion, as many of the gifts that have been made after the first of May, do not appear in the list of donations, although the publication may be dated some months later.

Our intention is to drop the word "Tract," but use the same continuous numbering for the publications, having the Director's report, etc., put out under the head of "Transactions," and the balance of our publications under the head of "Collections." So that with this year the publications will consist of "Transactions" as No. 98 of the Society's publications, and the "Collections" as No. 99.

Also a check list has been prepared, to be published as soon as may seem best, which will be supplementary to Tract No. 93, and will include the recent books added to the King Collection of books on Costume.

## TRIPS

As has been the habit in former years, a number of short trips have been made to the various towns on the Reserve, resulting in good additions to our collections. The pressure of work in the building however has been so great that it has been impossible to take as many of these trips as seemed to be desirable.

Every little while our attention is called to this or that collection that could be procured if we went after it, and while we cannot cover the whole field, yet we cover as much as we can.

One long trip was made to the South early this spring which resulted in the accumulation of some very rare material, as well as the making of acquaintances which are always helpful to the Society and results from which are felt long after the trip may be forgotten.

Owing, to the high waters a day was spent in Cincinnati which was not anticipated when laying out the trip, but it was put to good advantage and the beginning of an arrangement for obtaining two quite important collections was made.

From Cincinnati we visited Lexington, Kentucky, where we called at the Transylvania College Library, and also at the Lexington Library. Material was obtained at both places. A side trip was also made to Paris, Kentucky, for some special items.

Nashville, Tennessee, was our next stop, where we visited the Tennessee Historical Society, also the old Normal School; and it was here that quite a bunch of material pertaining to the old Willoughby Normal School, which we had not been able to obtain before, was picked up. It seems that the Principal of the School in the thirties moved to Nashville and became connected with the Normal School there. Also Volumes II and III of Benjamin Lundy's *Genius of Universal Emancipation* were obtained. This periodical, the first one published in the United States

devoted to the cause of Anti-Slavery, was started by Mr. Lundy in Ohio, and continued afterwards at Nashville, and still later in Baltimore. There are very few copies of this, in fact I know of no other set in any of the libraries.

The State Library was also visited and a fine collection of the publications of the State of Tennessee during the war period was dug out of the basement of the State House.

Our next stop was at Jackson, Mississippi, and a visit was made to the beautiful new State house recently completed. They have no general State Library at Jackson. Their Division of Archives under the management of Mr. Dunbar Rowland, is being excellently conducted. The collections of the Mississippi Historical Society are in the building, and consist almost entirely of museum material. There seems to be a dire need in this state for a general library where the people of the state can have the advantages resulting therefrom. The publications of the Mississippi Historical Society are very valuable; but, as that Society is not collecting to any extent the publications of other societies, perhaps accounts for the fact that there are not more sets of their own publications in the various libraries of the country. We did not have a single volume of them in our own library, complete as it is in most of the Society publications of this country. Arrangements were made by which we have obtained a full set, and will receive others as issued.

We also had presented to us by Mr. Rowland, a large collection of Confederate States money and separate state issues.

From Jackson we went to New Orleans, a place full of interest, also of many old book shops, and good public libraries, as well as private libraries. A number of these were visited.

In the Howard Memorial Library, whose genial librarian, Mr. Beers, has been with it from its inception,

nearly three days were spent in going through their duplicates, and a case of material has just been received from there which we have not yet checked up.

A visit was also made to the Louisiana State Historical Society and the Louisiana State Museum. A file of the Louisiana State Historical Society publications which we were lacking have been received on exchange.

The private collections of Mr. Gaspar Cusachs, President of the Louisiana Historical Society, and also the remarkable collection on Louisiana belonging to Mr. Thompson, President of the Louisiana State Museum, were both seen. Mr. Thompson, it is said, has as fine a collection on Louisiana as there is in existence, and many profitable hours could be well spent in the quietness of his private library.

From New Orleans we went to Mobile, and then on to Montgomery, where we felt quite at home, owing to the closeness of Camp Sheridan and the constant meeting of Ohio acquaintances who were, connected with the camp at that time. From an historical standpoint, of course, everything centers around the State Capitol, in which the Confederate Government was first organized and Jefferson Davis proclaimed President.

Here, Honorable Thomas N. Owen, State Archivist, is developing a collection very similar to our own, of course, being centered around Alabama history as a nucleus; and by untiring efforts he has brought together during the last fifteen years, a very fine general collection. He took great pains in showing me the different methods he has employed in handling the various collections, and a delightful day was spent in comparing notes. A large collection of material was also obtained from this place.

Stops were also made at Atlanta and Savannah. At the latter place, by special invitation, a visit was made to the De Renne Library at Wormsloe, Georgia, which is probably the most outstanding collection on

Georgia history. We also visited the Georgia Historical Society.

From Savannah we went to Charleston and then to Columbia. Since our last visit to Charleston, the South Carolina Historical Society has been housed with the Charleston Library in their new fire-proof building.

From every place we visited, material was obtained. Several hundred issues of Confederate newspapers, which are exceedingly desirable, were picked up on this trip. Besides the books, pamphlets, newspapers and other material already received, there are still some newspapers coming, which when received, will make an addition to the above of two or three thousand separate numbers.

We have been very fortunate thus far, in not being disappointed in the results of any one of our trips. They have always brought handsome returns in the way of material, yet, of equal value has been the insight gained into new methods, and in getting into closer touch with other organizations working along the same lines as ourselves. It is a source of a great deal of personal pleasure to see how well known our Society has become in all sections that have been visited.

### THE LIBRARY

The library has kept up a steady growth through the year. We have an efficient corp of workers and although we could easily use more, in order to keep the work any where near up to date, yet we hardly think it is the time to expand in this direction.

The report of the cataloguing and the detail work accomplished will best be seen in the statistical record of the library later on in this report. We shall treat the work of the library under its different divisions.

### MANUSCRIPTS AND BROADSIDES

The Manuscript and Broadside collections of the Society are steadily growing and each year there is

generally some one collection that stands out more prominently than the others. The one this year which perhaps overshadows the others is the collection of the John Kerr manuscripts.

John Kerr was one of the four original proprietors of Columbus, Ohio, and from the character of the papers in his collection, he must have been a person of great prominence, not only in the development of Columbus, and the getting of the capitol removed to that place, but also in various other enterprises.

It was on February 20th, 1810, that the General Assembly of Ohio passed an act to provide for a commission to select a site for the permanent seat of government, which up to that time had been first at Chillicothe, then for a short time at Zanesville, later, again at Chillicothe. The plateau on which Columbus stands was patented as early as 1802 by some Revolutionary War refugees from Canada and Nova Scotia, but was later purchased by James Johnson, Lyne Starling, Alex. Laughlin, and John Kerr, who combined their interests under the firm name of "Proprietors of Columbus." John Kerr became secretary and probably on this account, was able to save the large collection of manuscripts which we have obtained. The whole collection contains several hundred manuscripts, records, maps, etc.

We call your attention to a few of the more prominent items.

The original manuscript plat of Columbus and other parts of Franklin County, in the hand of and signed by John Kerr, dated Chillicothe, February 26, 1807—size 28 x 13 inches, and giving the names of the owners of the various lots. This is probably the first land map of Columbus.

The original manuscript plat of Worthington, signed by Jas. Kilbourne, dated May 16, 1804. This is undoubtedly the first plat of Worthington.

A manuscript record book containing some thirty plats, surveys and patents of Ohio lands, dated 1800-23.



Another volume with some twenty odd plats and surveys of Ohio lands, dating between the years 1807 and 1811.

The most valuable maps in the collection are two companion maps forming the Northwestern section of Ohio, extending west of the Reserve and north of the Greenville Treaty Line. The first of these two maps, covers the western half and is bounded on the north by the northern boundary of Ohio, on the south by the Greenville Treaty line, on the east by the east line of Piqua District and on the west by the State line. Size 46 x 27 inches. The other map, (45 x 28 inches) covers the eastern half of this section, and is bounded on the north by Lake Erie, Miami River, etc., on the south by the Scioto river, etc., on the east by the line of the Reserve. These maps are in the hand of John Kerr, and dated (1816). They have never been published so far as we have been able to find. On them are carefully located the Indian trails, villages, forts, etc.

Another map, which also has never been published, is the original map of Township No. 6, north, Range No. 16, east of first meridian in Ohio, showing Sandusky River and Bay, Portage River, etc. Size 16 x 13 inches. This also is in the hand of John Kerr and dated (1815).

An entire monograph could easily be given to the description of the various maps in the collection, all of which are in manuscript. All told there are in the neighborhood of 200 maps and surveys.

Among the other items in the collection are:

The record book of the "Franklinton Turnpike Company," containing the Minutes of the Proceedings, Names of Members, Articles of Association, Surveys, etc., from April 7, 1817 to Sept. 12, 1818. Mr. W. T. Martin in his history of Franklin County states that "The Columbus and Sandusky Turnpike Company was the first joint stock company road constructed, any part of which was in Franklin

County." This Company was incorporated, Jan. 31, 1826, while the Franklinton Turnpike Company antedates it nearly nine years.

The original manuscript book of the Proprietors of Columbus containing the Minutes of the Proceedings of the Proprietors from their first meeting at Franklinton, April, 1812 to June 16, 1815, also accounts of sales of land in Columbus from June 18, 1812 to Sept. 21, 1819.

The original manuscript book inscribed "Account of Sales of Lots in Columbus," commencing the 18th of June, 1812, gives the names of the purchasers, residence, number of lot, date of sale, prices sold at, etc.

A manuscript inscribed "Owners of Lots in Columbus," dated 1822.

The original manuscript Report of the Election of Officers of Scioto Lodge No. 2, F.&A.M. of Chillicothe, dated Dec. 5, 1810, and about 12 other manuscript records of this early Ohio lodge.

The record book containing the Minutes of the Proceedings of the Polomic Literary Society, Chillicothe, list of members, etc., Jan. 1803.

The original record book giving rules and regulations of the Chillicothe Library, with catalogue of the books therein, 1804 to 1813. This library was one of the first to be established in Ohio, and far antedates any record at Chillicothe of its early libraries.

The original manuscript charter of the Farmers' Bank of Columbus, one of the earliest banks in Ohio. Mr. Kerr was the first President of this bank.

Original manuscript of an Authentic Arithmetic in the hand of John Kerr, dated Jan. 28, 1788.

An unpublished manuscript journal in the hand of John Kerr of a tour from Pittsburgh to Kenahawa, Va. and return in 1800. This gives description of towns, villages, settlements, and other interesting items noted on this trip.

A large manuscript book containing the Minutes of the Proceedings of the Columbus Library, Constitu-

tion, Rules and Regulations, Names of Members, Number of Shares issued to each subscriber, Names of Officers, Catalogue of books, etc., April 8, 1816 to Feb. 9, 1819. This record shows that a library existed in Columbus several years earlier than any mentioned by the historians of Columbus, or by the State Librarian.

Among the manuscripts and broadsides added to the library this year may be mentioned the following gifts:

Miss Stella T. Hatch. Typewritten manuscript of the "Pioneer Women of Cleveland, West Side, 1807-1850."

Dr. G. C. Ashmun. Field Book of Surveys of Tallmadge.

Mr. S. P. Baldwin has placed with the Society for permanent preservation a collection of miscellaneous items, largely manuscripts pertaining to the development of Gates Mill and its history. In this collection is the manuscript history of Gates Mill taken down from two of the oldest inhabitants in 1904. Also records of the Maple Leaf Land Company, and copies of a number of papers that have been published there; newspaper clippings, etc.

Thomas and Charles P. Kinsman. A large number of manuscripts relating to the Western Reserve, from the papers of Hon. Calvin Pease. These were received through the courtesy of Mr. Wm. G. Dietz.

The Executive Committee, Cleveland Centennial Commission. Index to Pioneer Families of Cleveland, by Mrs. Gertrude Van R. Wickham.

Mrs. Perry L. Hobbs. Report of the Historian of the Western Reserve Chapter, D.A.R., 1915-1917.

Mrs. Virgil P. Kline. Broadside—"To the People of New England." Pertaining to the War of 1812.

Mr. F. F. Prentiss. Four early Ohio Broadside. A collection of letters, documents, etc., of the Vallandigham family of Ohio, 1796-1864.

Miss Eva L. Reefy. Manuscript Record Book, Anchor Lodge, No. 119, Knights of Honor, Elyria, Ohio, 1875-84.

Mr. Wm. P. Palmer. Autographed manuscript of "The Battle of Fair Oaks" by General Erasmus D. Keys, 1889. Original autographed manuscript Report of the Battle of Monocacy, by Major General Lew Wallace, Baltimore, 1864. Log of the U. S. Steamer Brooklyn and

Richmond of South Western Gulf Blockading Squadron, in command of Joseph Simpson, 1861-1864. A large collection of manuscripts, order books, record books, General Orders, etc., of the 10th Ohio Volunteer Infantry. The Mercury Extra, dated Dec. 20, 1860. Broadside—The Union is dissolved. Broadside offering \$100,000 reward by the War Department, Washington, April 20, 1865, for the capture of Surratt, Booth, and Harrold. A miscellaneous collection of Civil War song-sheets.

### MAP COLLECTIONS

Within a few days after our last annual meeting, the steel cases in our manuscript room and vault were installed, and as we could from time to time, the work of classifying and putting away the material intended for these rooms, has been carried on.

The large, interesting and exceedingly valuable collection of maps and atlases, largely relating to America, that came to us from the C. C. Baldwin estate, have been removed from their cases, in which they have stood for a long number of years, carefully opened up, partially arranged and classified. The wall maps have been removed from their rollers and prepared for mounting and laying flat. The loose maps will have to be mounted on cloth in order to preserve them. The work on these should be pushed forward just as soon as funds may be obtained for it. The atlases we will catalogue at once. In our next report we hope the work will have progressed sufficiently so that we can give a more elaborate account of this interesting collection.

Although in some way your director was familiar with the collection, yet in going through it more carefully he realizes the importance and completeness of Judge Baldwin's work in gathering these early American maps.

In addition to the Baldwin collection and the maps listed below, quite a number of Civil War maps have come in through the William P. Palmer collection, the most interesting being the manuscript maps of

General Wilder. This collection consists of nearly thirty manuscript maps, used by General Wilder in his campaigns.

Mr. W. H. Cathcart. 12 maps—miscellaneous.

Mr. Daniel M. Bates. Lloyd's Official Map of the State of Virginia, 1858 and 1859. Lloyd's Military Map & Gazetteer of the Southern States. General Grant's Campaign War Map.

Mr. John T. Loomis. Map of the Federal Territory from the Western Boundary of Pennsylvania to the Scioto River.

Mrs. Cora Bowler Malone. Map of the Western Reserve, including the Firelands, September, 1826.

Mrs. E. B. Nicalaus. Atlas of the World, 1701-1721.

#### NEWSPAPERS

No special effort has been made during the year to increase to any extent our newspaper collections, yet the Society has received a number of very important papers, largely through gifts.

Special mention should be made of about 1000 issues of Confederate newspapers that have been added to the William P. Palmer Collection, and also of the file of the *Lorain Constitutionalist* and *Elyria Constitution*, from Vol. I, No. 1, Oct. 3, 1866 to date, which was presented to the library by Miss Eva L. Reefy, whose father was the editor and owner of the paper from 1872. This makes our files of the *Elyria* papers unique, covering as they do practically all of the early papers that have been issued there.

The attached list gives the additions to this division.

Miss Jessie Allen. *The Ashtabula Sentinel*, 4 vols, Jan. 1854-1860. *The Evening Post*, New York, 1859, 60. *The Buffalo Weekly Express*, 3 vols, 1856-1858. *The National Era*, Washington, D. C., 1855-1857. *The Cleveland Morning Leader*, 1859, 60. *The New York Weekly Tribune*, 1856.

The Amherst News Company. *The Amherst Weekly News* from the beginning in 1914.

Mrs. Mabel Askue. *The Connecticut Valley Advertiser*, containing History of East Haddam.

Mrs. Isabel Worrell Ball. 30 volumes of *The National Tribune*, 1885-1917.

*The Cleveland Plain Dealer*. Monthly bound volumes for 1917.

*The Cleveland Press*. Quarterly bound volumes for 1917.

Mr. F. F. Prentiss. Collection of early Newark, Ohio, newspapers, consisting of about 600 issues.

Estate of M. E. Raymond. A large collection of Warren and Chardon Newspapers.

Miss Eva L. Reefy, Elyria. A file of the *Lorain Constitutionalist*, and later known as the *Elyria Constitution*, from 1866 down to its close.

Mr. Lyman Treadway. Framed copy of the *Boston Gazette & Country Journal*, Monday, March 12th, 1770.

*Ballou's Pictorial*, Boston, 1856 and 1857.

*The Sentinel & Star in the West*, Cincinnati, 1829 and '30.

Photostat copies of *The Boston News Letter*, 1714-1725.

Mr. Wm. P. Palmer. *The Maryland News Sheet*, Baltimore, Md., 1861-62. Also a large collection of Confederate newspapers.

Mr. F. M. Wood. *The Painesville Telegraph*, Oct. 18, 1866. *Cincinnati Weekly Gazette*, Sept. 21, 1881. *Le Journal*, 1916 (2 nos.). *The Telegraph*, Nov. 27, 1844. *The Press & Advertiser*, Dec. 5, 1860. *Christian Advocate and Journal*, Aug. 12, 1836.

The Lawrence Publishing Company. *The Ohio Farmer* for 1917, bound.

## WAR LITERATURE

As has been stated in the beginning of the report, extensive efforts have been made during the year to cover material concerning the present war. This has been so bulky and so large that it is almost impossible to enumerate anything like a satisfactory list of it. I will however, call attention to a few items to show the general character of material that is being obtained.

American Lithograph Company, New York. 7 posters pertaining to the war.

American National Red Cross, Washington, D. C. Collection of Posters.

Latham Lithograph and Printing Co., Brooklyn, N. Y. Collection of Posters.

Liberty Loan Committee, New York. Printed material pertaining to the Liberty Loan.

Mr. Otto Miller. Collection of typewritten material pertaining to Camp Sheridan.

Mr. Sidney A. Mayer. File of *Trench and Camp*, Camp Sheridan.

*Trenton Times*. File of *Camp Dix Times*.

Chaplain Crain. File of *The Reconnaissance*.

Columbia University. *Columbia War Papers and Bulletins of Information*.

Committee on Public Information, Washington, D. C. The full set of their publications.

*Courier Journal*. File of *Trench and Camp*, Camp Zachary Taylor.

Mr. J. Robert Crouse. Printed material pertaining to War Savings Certificates and Thrift Stamps.

Mr. Forest F. Dryden. "*The Army and the Navy of the United States of America*."

Erie Lithograph Company. Posters.

Governors of the different Federal Reserve Banks. Printed material pertaining to the Liberty Loan.

Florida Times Union. File of *Trench and Camp*, Camp Johnston.

Forbes Lithograph Manufacturing Company. Posters.

Albert Frank & Company. Posters.

Chaplain A. C. Howells. File of the *Eighty-third Division News*, Camp Sherman.

H. C. Miner Company. Collection of posters.

Mr. Geo. M. Smith. File of *Trench and Camp*, Camp Pike.

Prof. J. M. Telleen. "*The Camp Workers and Their Work*." Camp Sherman.

Mr. Wm. Thompson. Partial file of the *Red Cross Magazine*.

Mr. Tim Thrift. 19 original drawings pertaining to the Red Cross Campaign.

U. S. Marine Corps. Posters and circulars pertaining to U.S.M.C.

U. S. Navy. Collection of Posters.

U. S. Navy League. Printed material pertaining to the war.

U. S. Navy Recruiting Station, Pittsburgh. Posters.

Wyanoak Publishing Company. Posters.

Mr. Basil L. Walters. File of the *Ambulance Service News*, Allentown, Pa.

Mr. Alvah Bradley. Report of the Publicity and Advertising Committee, Y. M. C. A. War Work Campaign, Nov. 11-17, 1917. War Work Week—Nov. 11-17, 1917—portfolio containing photographs, literature, posters, etc. of the Y. M. C. A. Campaign.

Mr. Adam Strohm. File of *Trench and Camp*, Camp Gordon.

Mr. Geo. W. Gossel. File of the *Pass in Review*, Ft. Worth, Texas.

### BOOKS

The general additions to the library for the year amount to 8,000 miscellaneous books and pamphlets. A large proportion of these have come in through special funds as enumerated below.

#### J. D. COX FUND

This fund was used this year in the purchase of the Washington medals, an account of which is given under the head of Medallion Collections in the Museum.

#### RALPH KING FUND

The Costume Collection which has been largely increased during the last three years, by means of this fund, has been further added to this year. It has been used even more this year than last. Several of the schools that had made little use of the collection before have become very much interested, and the room set aside for these books has been used daily by workers who are constantly praising the facilities so nicely provided by Mr. King.

The 714 volumes in the King Collection have been carefully catalogued during the last three months. In addition to the general author and subject cards filed in the regular catalogue, a special catalogue has been made which is to be kept in the Costume room, convenient for the users of the collection. For this



special catalogue about 900 cards have been prepared.

As many of the books in this unique collection are exceedingly rare and expensive, and, oftentimes in beautiful bindings, one of the assistants has made folders of binding cloth lined with soft outing flannel to keep them from rubbing against one another, which in a short time would seriously damage the highly polished surfaces of the bindings.

The following books have been added by Mr. King to the Costume Collection this year:

41 volumes. *The World in Miniature*, by W. H. Pyne.

17 volumes. *Ladies Monthly Museum*, Vols. 11-27.

1 volume. *English Costume*. A series of 24 colored costume plates describing the dresses worn from 1053 to 1807.

1 volume. *Greek Costumes*—Original drawings by Moyr Smith, containing 20 original colored drawings.

1 volume. *Histoire du Costume en France*, par J. Quicherat. Paris: 1875.

1 volume. *The Ladies Companion and Monthly Magazine*, Vol. 3, London: 1851.

1 volume. *Costumes des Pyrénées*. Alfred Dartiguenave.

Making a total of 63 volumes.

In addition to these Mr. W. T. Higbee has made a valuable donation of "Silks in the World of Fabrics and Fashions," and 16 Fashion magazines.

#### WM. P. PALMER FUND

It is almost impossible to do justice to the books and pamphlets that have been received through the above fund, which this year amount to 1294 books and pamphlets, in addition to the portraits, maps, newspapers, and manuscripts that have come from the same fund.

Some twenty rare and valuable items on Lincoln have been added to the collection. The items that we lack in Lincolniana are growing less every year and therefore the ones to be obtained are those that are seldom offered. This is true with regard to much of

the Confederate material that is lacking. As we have become better acquainted with the collections of other Societies we find there are very few that excel this collection of Mr. Palmer's, in any respect. In many of its divisions we are far in advance of other libraries.

Special effort has been made along the line of Confederate material. A large number of pieces of sheet music printed in the South during the war period have been added to this collection from time to time. This year quite a large number of pieces have come in.

We enumerate a few of the more important and outstanding books and pamphlets that have been added during the past year.

*Journal of the Senate of the General Assembly of the State of North Carolina at its first session, 1862.* Raleigh, 1862.

*The Battle of Fort Sumter and first victory of the Southern Troops.* Charleston, 1861.

*Acts and Resolutions of the Second Session of the Provisional Congress of the Confederate States, 1861.* Montgomery, Ala. 1861.

*Journal of the Senate of the General Assembly of the State of North Carolina at its second session, 1863.* Raleigh, 1863.

*Journal of the House of Commons of North Carolina at its Session, 1862-63.* Raleigh, 1863.

*Provisional and Permanent Constitutions together with Acts and Resolutions of the first session of the Provisional Congress of the Confederate States, 1861.* Montgomery, Ala. 1861.

*Articles of War for the Government of the Armies of the Confederate States.* Charleston, 1861.

*Alabama. Ordinance and Constitution of State of Alabama, of the Provisional Government, and of the Confederate States of America.* Montgomery, 1861.

*Alabama. Acts of the called session, 1863, and of the third regular annual session of the General Assembly, held in Montgomery, August 17th, and the second Monday in November, 1863.* Montgomery 1864.

*Georgia. Acts of the General Assembly of the State of Georgia passed in Milledgeville in December, 1865, and January, February, and March, 1866.* Milledgeville, 1866.

*Mississippi. Journal of the House of Representatives of the State of Miss. Called session, at Macon, August, 1864. Meridian, Miss. 1864.*

*Mississippi. Laws of the State of. Passed at the regular session held at Jackson, November and December, 1861, and January, 1862. Jackson, 1862.*

*Mississippi. Laws of the State of. Passed at the regular session held in the city of Jackson, October, November and December, 1865. Jackson, 1866.*

*Mississippi. Laws of the State of. Passed at called session held in Macon, March and April, 1864. Meridian, Miss. 1864.*

*Mississippi. Laws of the State of. Passed at called session held in Macon, Aug., 1864. Meridian, Miss. 1864.*

*Florida. The Acts and Resolutions adopted at the first session of the 12th General Assembly. Begun and held at the Capital, Tallahassee, Nov. 17, 1862. Tallahassee, 1863.*

*Florida. Acts and Resolutions adopted by the General Assembly at its 14th session begun and held at the Capital in Tallahassee, December 18, 1865. Tallahassee, 1866.*

*Virginia. Acts of the General Assembly of. Passed at the extra session assembled at Richmond, June 19, 1865. Richmond, 1865.*

*North Carolina. Ordinances of the State Convention published in pursuance of a resolution of the General Assembly ratified February 11, 1863. Raleigh, 1863.*

*Tennessee. Acts of the State of Tennessee passed at the first session of the 34th General Assembly for the year 1865. Nashville, 1865.*

*Louisiana. Acts passed by the 5th legislature of the state at its session held and begun in Baton Rouge, January 21, 1861. (French and English) Baton Rouge, 1861.*

*Louisiana. Acts passed by the 6th legislature of the state held and begun in Baton Rouge, November 25, 1861. (French and English) Baton Rouge, 1861.*

*Louisiana. Acts passed by the General Assembly of the State of, at the extra session held and begun in New Orleans, November 23, 1865. (French and English) New Orleans, 1866.*

*Louisiana. Acts passed by the 7th legislature of the State of Louisiana at its first session held in the city of Freeport on the 18th day of January, 1864. Shreveport, La. 1864.*

*South Carolina. Journal of the Convention of the people of South Carolina held in 1860, 61, and '62 together with the Ordinances, Reports, Resolutions, etc. Columbia, S. C. 1862.*

*Rules for the House of Representatives of the Confederate States. Richmond, 1862.*

#### F. F. PRENTISS FUND

Mr. Prentiss is showing the same deep interest in our work that he has from the first, and is providing us with funds that have enabled us thus far to purchase such needed Ohio material as has been offered to us.

The fund is most welcome, as it makes it possible for the Society to purchase the items directly they are offered, so that we are less liable to lose books through delay caused by having to seek the funds first.

There has been added through this fund during the year 139 books and pamphlets. Among these perhaps the most interesting are as follows:

*Papers relative to the Mission of Hon. Butler King of Europe. Milledgeville, Ga. 1862.*

*Quelques considerations sur la defense de l'etat de la Louisiane. Nouvelle-Orleans, 1861.*

*Narrative of Richard Lee Mason in the Pioneer West. 1819.*

*One Garfield Scrap Book.*

*Ashe's Travels in America, 1806. New York edition, 1811.*

*Birbeck's Notes on a Journey in America. Dublin, 1818.*

*Conclin's New River Guide. Cincinnati, 1853.*

*Report of the Attorney General on Contract with John C. Symmes. 1803.*

*Journals of the Protestant Episcopal Church in Ohio, two sessions, 1818.*

*A Collection of 30 pamphlets on General James A. Garfield.*

*A Collection of early Ohio newspapers.*

*Papers in relation to the Official Conduct of Governour Sargent in connection with the Mississippi territory. Boston, 1801.*

*Chauncey's Letter to a Friend. 1767.*

- Holditch, Robert. *The Emigrants' Guide to the U. S.*  
 Harmon, Daniel W. *Journal of Voyages and travels in the interior of North America.* 1820.  
 Norton, John N. *The Life of Bishop Chase.* 1857.  
 Phillips, Cutler. *Map of Ohio and Description.*  
 Beatty, Chas. *The Journal of a two months tour; with a view of promoting religion among the frontier inhabitants of Pennsylvania.* London. 1768.  
 Winter, N. O. *History of Northwestern Ohio.*  
 Meek, Basil. *History of Sandusky County.*  
 Also a number of other early Ohio imprints.

#### H. A. SHERWIN FUND

The fund established by Mr. H. A. Sherwin while he lived, for the purchase of books on the Mormons, has been completely invested. We are hoping that some day this fund may be re-established so that this valuable collection may again be carried on to a larger extent.

There has been purchased during the year 47 items, the most important one being a copy of *The Evening and Morning Star*, June 1832,-September 1834, published at Kirtland. These early Mormon papers are almost impossible to obtain and the Society is to be congratulated in having as good files as they have of these early periodicals.

Among the items purchased, we mention the following:

Stansburg, H. *Die Mormonen-Ansiedlungen.* Stuttgart, 1854.

Greene, J. P. *Facts relative to the expulsion of the Mormons.* Cincinnati, 1839.

*Mormon Fanaticism Exposed.* A Compendium of the Book of Mormon, or Joseph Smith's Golden Bible. Boston, 1842.

*Document of Correspondence, Orders, etc. relating to Mormons.* Fayette, Mo., 1841.

*The Report of the Public Discussion at Stockport between John Bowes and Mr. Joseph Barker.* London, 1855.

Smith, Joseph. *The Book of Mormon*, 3d ed. Nauvoo, Ill. 1840.

Pratt, P. P. *A Voice of Warning*, 2d ed. rev. New York, 1839.

Smith, Joseph. *The Book of Mormon*, 1st Welsh ed. 1852.

Smith, Joseph. *The Book of Mormon*, 1st French ed. Paris, 1852.

Smith, Joseph. *The Book of Mormon*, 1st Italian ed. Londra, 1852.

Lyon, John. *The Harp of Zion*. Liverpool, 1853.

Hickman, Bill. *Brigham's Destroying Angel*. Explanatory Notes by J. H. Beadle, Esq. New York, 1872.

### GENEALOGICAL RESEARCH

This division of our work is constantly growing. There have been more searchers, who have been working on their family histories this past year than ever before. To keep up with the demands in this direction is always impossible, yet our collections have been increasing rapidly.

This year we have added 466 genealogies to the library, 31 through individual gifts and exchanges, and the remainder were purchased by means of

### THE J. H. WADE FUND

Through this purchase, many of the rarer and choicer genealogies have been obtained. A large percent of these were issued in small editions of fifty or one hundred copies, rarely any in larger editions than of 250 copies, and it is this that causes the scarcity and high prices of so many of the family histories. Still others have been privately printed and seldom get into the book shops where they may be purchased.

With another one or two purchases of the magnitude of this one, so generously financed by Mr. Wade, our collection will rank well up with those of the older and more extensive collections in the East. It might stimulate both interest in, and gifts to this division of our work if we were to publish a brief check list of the various family histories now in our collection.

Mr. Wade's gift has certainly been appreciated, judging from the remarks of those who are already reaping the benefit of this magnificent addition.

Following is a list of the genealogies added this year outside of the J. H. Wade gift.

Mrs. Louis Richmond Cheney and Miss Eliza Trumbull Stickney. *A Genealogical Chart of some of the Descendants of John Trumbull.*

Mr. Percy Adams, England. *A History of the Adams family of North Staffordshire.* London, 1914. This is one of the most beautiful and elaborate genealogies received during the year.

Mr. F. A. Baker. *Genealogical Record of Rev. Nicholas Baker (1610-1678) and his Descendants.*

Mrs. F. A. Ball. *1917-1918 Year Book of the Samuel Ashley Chapter, D. A. R.*

Mr. Pierson Worral Banning. *Roster of the Society of Colonial Wars in the State of California.* 1916. Also a file of the *Liberty Bell.*

Mr. P. H. Baskerville. *The Baskerville Family, Richmond, Va. 1912. Additional Baskerville Genealogy, Richmond, Va. 1917. The Hamiltons of Burnside, North Caroline, Richmond, 1916.*

Rev. Newton W. Bates. *The Bates Bulletin.*

Mr. E. M. Chadwick. *The Chadwicks of Guelph and Toronto and their Cousins. Also Supplementary Notes and Addenda.*

*Chicago Chapter, D.A.R.* Year book for 1917-18.

Clarence W. Eastman. *An account of some of the Ancestry of Harry Thompson and Myra Hull.*

Mrs. Fenno-Gendrot. *The Ancestry and Allied Families of Nathan Blake 3rd and Susan (Torrey) Blake.*

Mr. Alden Freeman. *Memorial of Captain Thomas Abbey. His Ancestors and Descendants of the Abbey Family.*

Mr. E. B. Greene. *The Greene's of Rhode Island, with Historical Records of English Ancestry, 1534-1902.* By Louise Brownell Clarke. 1903.

Captain Hollenbeck. *History of the Cahoon Family and Chart.*

Mr. B. A. Leonard. *The Newton Genealogy.*

Miss K. P. Loring. *The Loring Genealogy by Charles Henry Pope, and Katharine Peabody Loring.* Cambridge, Mass. 1917.

Mrs. Amos B. McNairy. *Genealogical Records*. Edited by Jeannie Robison and Henry C. Bartlett.

Mr. Chas. E. Mather. *The Mather Family of Cheltenham, Pennsylvania*. By Horace Mather Lippincott, Philadelphia, 1910.

Mr. Edward A. Merritt. *Revised Merritt Records*. Comp by Douglas Merritt. New York, 1916.

Mr. Frederick C. Nims. *Notes Genealogiques sur la Famille Raizenne*.

Mr. O. O. Page. *A Short account of the Family of Ormsby of Pittsburgh*. 1892.

Mr. John Henry Patterson. *History of the Beck Family*. By Charlotte Reeve Conover.

Mr. John Pearson. *Descendants of Andrew Webber, 1763-1845*.

Mr. Theodore Cuyler Rose. *The Tousey Family in America*.

Mr. Harry L. Shiner. *Descendants of Abraham Tournellote Andrews and his wife, Miriam Lurinda Guild*.

Dr. Moses D. A. Steen. *The Steen Family*. 2d edition, 1917.

Mr. Virgil C. Taylor. *Historical Sketches of the Romer, VanTassel and Allied Families and Tales of the Neutral Ground*.

Dr. J. J. Tyler. *One Line of Descent from the Branford, Connecticut Line of Tyler*.

Mr. S. E. Wait. *A Partial History of the Whittier, Fox, Colburn, Packard, Brainerd and Wait Families*.

Mrs. Cyrus Walker. *The English Ancestry of Peter Talbot of Dorchester, Mass., compiled for Emily Talbot Walker*, by J. Gardner Bartlett.

Mr. J. S. Wrightnour. *The Frampton Family*, by J. S. Wrightnour.

In addition to the books that came in through the special funds a large number of individual gifts have been made to the Society, among which we note the following:

Miss Jessie Allen. Thirty-two miscellaneous volumes.

Mrs. W. W. Armstrong. Sixty-nine miscellaneous volumes, 8 pamphlets.

Dr. G. C. Ashmun. *The National Portrait Gallery*. 3 volumes.



Dr. Elroy M. Avery. Ten miscellaneous pamphlets.  
Estate of Robert Bailey. One hundred and fifty miscellaneous volumes.

Thomas W. Balch. "*The Philadelphia Assemblies.*"

Mr. H. G. Baldwin. "*Old Roads out of Philadelphia.*"  
By John T. Paris.

Mr. S. P. Baldwin invited your director to make a selection from the books in his private library that would be of use to the Society. The selection consisted of some sixty volumes and two hundred pamphlets. The collection included a bound set (lacking two volumes) of the *National Geographic Magazine* and a number of the *Bulletins of the Geological Society*. *Lowndes Bibliographers Manual*, 11 vols. *Hall's Legends of the West*, first edition. *Hubbard's Narrative of Indian Wars*. In addition to these Mr. Baldwin has sent in 126 magazines and 24 miscellaneous volumes.

Mrs. Isabel Worrell Ball. Forty-six numbers of *The Indian Leader*. Sixty-six miscellaneous publications.

Mrs. M. M. Bond. *Arthur's Magazine*, 4 volumes, 1872, 1873, 1879 and 1880.

American Colleges. A large number of general catalogues have been received from our various American Colleges.

Mrs. Charles Brooks. From the estate of Mr. Virgil P. Kline—67 miscellaneous volumes.

Mr. C. M. Burton. Reprints of manuscripts from the Burton Historical Collection, Volumes 1, 3, 5 and 6.

Mr. Joseph G. Butler. "*A Journey through France in War Time.*"

Mrs. Oscar J. Campbell. Eighty-four miscellaneous volumes and ninety-nine magazines.

W. H. Cathcart. Seventeen volumes, three hundred pamphlets.

Mr. N. A. Chapman. Three hundred and eighteen books and three hundred and twenty-five pamphlets—miscellaneous.

Mr. Pierce C. Chilton. T. F. Botsford's "*A Boy in the Civil War.*"

Miss A. B. Claffin. A File of the *Nation*, for the year, also twenty-six numbers of *The New Republic*.

Mr. A. H. Clark. *Indian Tribes of the Upper Mississippi and the Great Lakes Regions*. By E. H. Blair. 2 vols.

Mr. W. C. Cochran. *The Dream of a Northwestern Confederacy*. By Mr. Cochran.

Mr. J. D. Cox. Set of the *Cleveland Foundation Surveys*. Twenty-five vols. and a number of rare Ohio Books.

Mrs. C. J. Craft. *Atlantic Monthly* file for 1917. Ten miscellaneous pamphlets and four miscellaneous volumes.

Miss Alice K. Cushing. *One English Text Book*, 1821. *Goodrich's History of the United States*.

Mr. W. E. Cushing. *The Records of Massachusetts*. Six vols. *Result of Researches among the British Archives, relative to the Founders of New England*. By S. G. Drake. *Memorials of the Dead in Boston in Copp's Hill Burying Ground*. By Thomas Bridgman.

Wilson M. Day. *History of the Connecticut Valley* in 2 volumes, by L. H. Everts. *History of Springfield, Massachusetts* in 2 vols. *Records of the Town of Cambridge, Mass.* *First report of the Board of Trade Committee on Industry*, 1893.

The W. J. DeWrenne Georgia Library. *A Short History of the Confederate Constitution of the Confederate States of America*. 1861-1899. *A Catalogue of books relating to the History of Georgia in the library of W. J. DeRenne*.

Mr. Frank P. Dresser. *Memoir of George Frisbie Hoar*.

Miss Bettie A. Dutton. Thirty-six early text books.

Mr. Lorenzo Fish. Two early text books.

Mr. Clarence W. Fitch. "*Old Fifteen*"—A history of early Masonry in Cleveland.

Mrs. J. B. Foraker. A collection of Speeches and other publications of Mr. J. B. Foraker.

Mrs. H. C. Ford. *Council Proceedings of Cleveland*, 1880-83. *Ordinances of the City of Cleveland*, 1880-81.

Mrs. E. L. Harris. Thirty-five miscellaneous pamphlets.

Mr. Will Hayes. "*The Immortal Six*."

Mrs. S. H. Herriman. Six miscellaneous volumes and pamphlets.

Mr. Henry Holcomb. Four miscellaneous volumes.

Miss Holtkamp. "*Raising the Wreck of the United States Battleship Maine*."

Mr. M. B. Houghton. "*Two Boys in the Civil War and After*." "*From the Beginning Until Now*."

I. O. O. F. Home. *History of the Odd Fellows' Home of Ohio*. By L. E. Dodd.

Mrs. C. R. Koch. Ten volumes—*The Reports of the Proceedings of the Society of the Army of the Tennessee at the 24th to the 33rd Meetings.*

Mr. Melvin F. Lewis. Forty volumes—miscellaneous.

Mr. W. S. Long. "*James Barbour.*" By W. S. Long.

Mrs. Amos B. McNairy. Eight volumes—*Magazine of Western History.* Four pamphlets.

Mrs. Cora Bowler Malone. Twenty-seven miscellaneous volumes.

Mr. H. C. Miller. *29th Year Book, First Ohio Heavy Artillery*, also sketch of. By Mr. Miller.

Mr. Otto Miller. *Ancient Town Records.* Vol. 1, *New Haven Town Records, 1649-1662. The Institution and Records of the New Hampshire Society of the Cincinnati.*

Col. John P. Nicholson. Fifty pamphlets and one hundred and forty pieces, miscellaneous, on the Civil War.

Mr. Wm. P. Palmer. Vol. 4 of *The Hakluyt Society Publications.* Vols. 1 and 2, *Hurlburt's Ohio Company.* Vols. 2, 3, and 4, *Sprague's Journal of Maine History*, and continuation. Vols. 41-46, *The Geographical Journal.* Clara Endicott Sears' "*Bronson Alcott's Fruilands.*" Clara Endicott Sears' *Gleanings from Old Shaker Journals. The Unwritten History of Braddock's Field.* And a number of other pamphlets and books outside of the Civil War collection.

Mr. Hosea Paul. Annotated copy of "*A Military Record of Battery D, First Ohio Veteran Volunteers Light Artillery.*"

Mr. John Pearson. *History of Lonoke County, Arkansas. Cleveland Industries 1880-1910.*

Mr. E. R. Perkins, Jr. *Memorial of Edwin Ruthven Perkins.*

Mr. F. F. Frentiss. Sixty-two miscellaneous volumes.

Mr. Louis Ravenel. *Messages of the Presidents.* Vols. 1-11.

Miss Eva L. Reefy. Fifteen volumes of Ohio Laws; seventeen miscellaneous pamphlets.

Mrs. E. P. Roberts. One set of *Orth's History of Cleveland.* 3 vols.

Mrs. J. P. Sawyer. *Representative Citizens of Ohio.* By G. F. Wright.

Mrs. Johanna Schroeder. Four early text books.

Col. D. M. Scott. *A Brief Sketch of the Career of Captain Catesby.* By R. Jones. Roster No. 317. Camp Catesby, March, 1918.

Mrs. Belden Seymour. *The Life of Brigham Young.* By E. H. Anderson.

Mr. Geo. B. Shepard. *History of Jericho, Vermont.* 1763-1916.

Mr. Howard E. Talbot. Two early text books.

Mr. W. C. Talmage. Seven miscellaneous pamphlets.

Mr. Daniel R. Taylor. Collection of early text books.

Mr. R. C. Ballard Thruston. "*The Origin and Evolution of the United States Flag.*" By Mr. Thurston.

Mr. J. H. Wade. Andrews, Bessie Ayers. *Sketches of Greenwich in Old Cohansey. Selections from the Correspondence of the Executive of New Jersey from 1776-1786*

Hollifield, Rev. A. Nelson. *Remembering the days of Old.* Hewitt, Louise. *Historic Trenton*, 1890. Schenck, William Edward. *An Historical account of the First Presbyterian Church, Princeton, N. J.* 1850. Col. Scott's *Letter to Judge Nevius, Mr. Lupp, and Mr. Wood of New Brunswick, Oct. 1841.* Sprague, Wm. B. *Discourse at the First Presbyterian Church, Oct. 9, 1867.* Findley, Rev. Wm. T. *Forty Years Retrospect.* Historical Discourse at Central Presbyterian Church, Newark, N. J. Jan. 28, 1877. MacDonald, James M. *Some Reniniscences of a Twenty Years' Ministry*, Princeton, N. J. 1873. Ellis, Franklin. *History of Monmouth County, N. J.* Phila. 1885.

Mr. Charles Williamson. Ten volumes, ten pamphlets.

Mr. Sidney S. Wilson. Twenty-two miscellaneous volumes.

Mr. George C. Wing. An original of the folio edition of the *Reports and Arguments of Sir John Vaughan, Chief Justice of the Common Pleas.* London, 1677. By Thomas Roycroft.

Mr. W. E. W. Yerby. *History of Greensboro, Albama.* By Mr. Yerby.

### THE MUSEUM

The Interest in the Museum continues to grow, although little effort has been made to increase the collections, nor have we endeavored to make better classification of the material, owing to the limited space that we have. The Schools are taking increased advantage of this material. This year there were 71

classes from the various colleges, high schools, grammar schools, and private schools of Cleveland and its suburbs, that visited the museum, against 50 classes last year, and 27 the year before.

The attendance in the museum is about the same as during the previous year, although it has not been possible to keep a correct account of the visitors. We have no turnstile and the count must be made by an attendant who oftentimes has to be away from her desk, in different parts of the building, and can only count those whom she sees pass by her door.

### PICTURES AND PORTRAITS

No more interesting collection has been developed in connection with the Museum than that of the pictures and portraits. We have made an effort to obtain as many of these as we could.

A short time ago we made an appeal for the portraits of noted Clevelanders, and as a result of this appeal, perhaps the most outstanding picture that has come to the Society is the oil painting of Mr. Daniel P. Eells, presented by his son, Howard P. Eells. This generous example of Mr. Eells, we hope will be followed by others, and that from time to time, portraits of our leading men may find a place in our collections.

The following list will show that a number of interesting pictures have come to the Society.

To the Wm. P. Palmer Collection—about one hundred photographs and Civil War pictures.

Miss Stella T. Hatch. Large framed portrait of Mr. Daniel Pomeroy Rhodes. Large framed portrait of Mrs. Daniel Pomeroy Rhodes.

Mrs. W. W. Armstrong. Twenty miscellaneous pictures. Framed picture of General Breslin. Framed Group of United States Officials.

Mr. E. H. Baker. A collection of seventy-three photographs—Red Cross Campaign, Y. M. C. A. Campaign, and others pertaining to the war.

Mr. N. A. Chapman. A collection of miscellaneous pictures.

Mr. Howard P. Eells. Oil Painting of Mr. Daniel P. Eells.

Mr. F. F. Prentiss. Water color portrait of Tecumseh, the Shawnee chieftan, painted by Holland. Framed picture of Te Aho te Rangi Wharepu, Chief of the Ngati-Mahuta, tribe of Waikato, New Zealand. Showing the practice of tattooing.

Mrs. C. J. Craft. Drawing of Plymouth Church on Prospect Street just west of Ninth Street. By C. H. Strong.

Mr. Andrew Squire. Framed views of New York, 1776, 1826, 1916.

Mr. Belden Seymour. The Directors of The People's Savings & Loan Association, 1871—The First Board—22 portraits.

Mr. W. C. Talmage. Embroidered picture made by The Standard Sewing Machine Company of Cleveland for the World's Columbian Exposition in 1893.

Mr. Wm. P. Palmer. Oil Painting of Lewis Clark, the original George Harris of "Uncle Tom's Cabin. Painted from life by F. H. Dart, Oberlin, Ohio. Also Daguerrotype of Josiah Hanson, original of "Uncle Tom."

Mrs. C. H. Williamson. One early view of Cleveland about 1850.

Mrs. H. B. Barnes. Framed picture of M. A. Hanna.

Mrs. C. K. Halle. Framed portraits of Jacob Lestein-stecker and wife.

Mr. George M. Edmondson. Framed picture taken at Senator Hanna's residence at Luncheon, July 25, 1894, showing Senator and Mrs. Hanna, Mr. and Mrs. Alger, Governor Merriam, President and Mrs. Wm. McKinley and Mrs. McKinley's nieces, and Miss Phelps. Also photograph album of early Clevelanders taken by E. Decker.

Mr. B. Dettlebach. Framed hand drawn portraits of Mr. Henry R. Groff, John D. Rockefeller, President C. F. Thwing, Chas. W. Elliott, Ex-President of Harvard University.

Other items added to the museum embrace the following gifts:

Elroy M. Avery. Two Indian Portraits.

Miss Holtkamp. Paper Knife made of the wood from the "Maine."

Mr. George C. Wing. A water vase or jug of the Quichua Indians, Peru.

Mr. N. C. Smith. Hand made telegraph instrument used in the early sixties on the L. S. & M. S. R. R.

Miss Jessie Allen. A hunter's leather shot pouch, 100 years old.

Mr. J. W. Walton. An old field chest used by Col. Whittlesey.

Mr. Frank Gottschalt. One wool reel.

Mrs. C. J. Craft. Swingling knife for dressing flax made by David Humiston in 1850.

Mr. Wallace N. Stearns. The Sword of Captain Wm. Wallace Munn. Communion Service from Park Methodist Episcopal Church, Madison, Ohio, purchased in 1863.

Mr. N. A. Chapman. One tea set—four pieces of early pewter ware and two pewter spoons. Also three early antique glass bottles, and two old candle lanterns.

Mr. E. G. Norris. One spinning wheel.

Mr. Prentiss Baldwin. Collection of ten pieces of Astic pottery, etc.

Mr. J. V. N. Yates. U. S. Frigate Congress Flag. 18 x 9 feet, containing 26 stars.

Mr. James W. Ellsworth. One Whiting and Winchester eight day grandfather's clock, from Rutland, Vermont.

Mr. F. F. Prentiss. Two boomerangs, bowie knife, one Chinese clock, and a number of other relics.

Mr. G. W. Crossette. A collection of implements, etc., largely from the Philippine and Feejee Islands.

Mrs. T. W. Hill. A collection of Mexican pottery and utensils, consisting of twenty-five pieces. One pair of Indian Moccasins.

Mr. P. G. Ravelson. Fifteen arrowheads.

### MEDALLIC COLLECTIONS

The Society's collections of medals, which last year's report showed had been largely increased, has more than doubled itself this year. The most complete

and outstanding group that has been received is that of the collection of.

### WASHINGTON MEDALS.

purchased from the J. D. Cox fund.

Our attention was called last summer to a remarkable collection of medals formed by a gentleman in the east, who had for his hobby, devoted a long life to the gathering of different Washington medals. He had been not only enthusiastic, but most painstaking, replacing a poorer specimen, whenever possible, with a better one. Feeling that he had gone as far as he could in this collection, it was offered to us, and on calling Mr. Cox's attention to it, the Society was most generously authorized to purchase the entire collection, consisting of some 900 varieties, from the above mentioned funds.

Further purchases made from the same funds during the year have increased the collection until it now consists of (in round figures) 1000 varieties of Washington medals.

Of all the outstanding heroes in American history no one has been more extensively honored by a patriotic and loving people than George Washington. As Mr. W. S. Baker in his exhaustive check-list of Medallic Portraits of Washington printed in 1885, in speaking of his classification of the medals says—"It needs but a glance at the titles of the different groups, to reveal how the name of Washington is associated in the minds of a people, with all their diversified interests, pursuits and enterprises. Setting aside those referring directly to his own history, civil and military, the memorials of his death, eulogistic inscriptions and quotations from his pen, which comprise nearly all that properly speaking may be termed Washington medals, the work will be found to include almost every subject, national, local, and personal, which has arisen during the century. If benevolence is to



be awakened, patriotism aroused, emulation excited, temperance inculcated, industry stimulated, or events to be celebrated, the mind of the designer seems to turn at once to the Pater Patriae, and the medal struck for the purpose or occasion, must of course, bear his head as the prominent object."

In classifying this large collection, we have followed carefully the classification adopted by Mr. Baker, adding to it such subject headings as, "The Centennial Anniversary of the Inauguration," "Centennial of the Evacuation of New York," "Centennial of the Proclamation of Peace," "Centennial of the Constitution," etc., which groups have been formed since the publication of Mr. Baker's work. Of many of these medals only a very few have been struck. The Westwood medal, which comes under the head of Eulogistic medals, we possess one of the two known specimens, struck in tin. Of others in the collection there have been only four or five specimens struck. The metals used in striking these medals are lead, tin, silvered metal, copper, brass, bronze, silver and gold.

### LINCOLN MEDALS

To the Lincoln medals given the Society last year by Mr. Palmer, some 79 different ones have been added, making our collection of Lincoln medals now about 500. In addition to this, Mr. Palmer has presented to the collection:

Eighteen U. S. Grant medals.

Two Andrew Jackson.

Twelve General McClellan.

Five Henry Clay.

Thirteen Lane and Breckenridge.

Two General Fremont.

One General Hancock.

Sixteen Wm. H. Harrison.

Six Douglas.

Nineteen various Civil War Generals.

Other Lincoln medals have been received from:

Mr. Victor Morgan, Medal of Lincoln, awarded by the Cleveland Press.

Mr. Charles Edison, Lincoln medal commemorating Lincoln Centennial at Irvington-On-Hudson.

The Illinois Watch Company, six Lincoln medals.

Lincoln Accident Insurance Company, one Lincoln medal.

Lincoln Stove Company, one Lincoln watch charm.

The Toledo News Bee. Lincoln medal awarded by the *Toledo News Bee*.

Mr. C. J. Morgan, Large bronze medallion of Lincoln.

Other additions to the medallic collections are as follows:

Mr. C. J. Morgan. A large plated brass medallion of George Washington.

Mr. Robert Glenk. Medal of the Centennial of Louisiana Statehood.

Mr. Clark. Badge of the Annual Reunion of the United Confederate Veterans. 1915.

### NUMISMATICS

The paper money collection of the Society, which had been scattered in various scrap books, mounted in different ways, and put away in various envelopes, the past summer was brought together, unmounted, carefully cleaned, pressed and remounted on uniform cards, holding four ordinary size bills to the sheet, all carefully hinged so that both sides of the bills can be seen, and then filed under the individual states in specially made portfolios. This was a very tedious task as many of the bills were old and had to be handled with the utmost care, and those that were in any way torn had to be mended. The results accomplished are very satisfactory and has enabled

us to make some interesting displays along the different periods. Following is a list of the bills:

Colonial & Continental . . .	237		For'd. 1148
Alabama . . . . .	104	Missouri . . . . .	26
Arizona . . . . .	2	Nebraska . . . . .	5
Arkansas . . . . .	51	New Hampshire . . . . .	4
Connecticut . . . . .	36	New Jersey . . . . .	34
Delaware . . . . .	6	New York . . . . .	114
District of Columbia . . . . .	13	North Carolina . . . . .	157
Florida . . . . .	7	Ohio . . . . .	257
Georgia . . . . .	252	Ohio State Bank . . . . .	56
Illinois . . . . .	13	Pennsylvania . . . . .	45
Indiana . . . . .	22	Rhode Island . . . . .	27
Iowa . . . . .	2	South Carolina . . . . .	52
Kentucky . . . . .	19	Tennessee . . . . .	75
Louisiana . . . . .	94	Texas . . . . .	14
Maine . . . . .	6	Vermont . . . . .	14
Massachusetts . . . . .	46	Virginia . . . . .	200
Maryland . . . . .	19	Wisconsin . . . . .	7
Michigan . . . . .	156		
Minnesota . . . . .	1	Confederate issues . . . . .	1099
Mississippi . . . . .	62		
		Foreign . . . . .	75
		Total . . . . .	3389

On my southern trip a large number of issues of paper money were received, largely through donations, or exchanges. Also there were obtained, in addition to the items enumerated below, several hundred bills of the Confederate States issues:

Alabama . . . . .	25 bills
Florida . . . . .	2 bills
Georgia . . . . .	101 bills
Louisiana . . . . .	1 bills
Mississippi . . . . .	50 bills
North Carolina . . . . .	11 bills
Tennessee . . . . .	2 bills
Virginia . . . . .	4 bills

Similarly to the paper money the task of classifying and arranging the collection of coins has been continued. We have had to devote odd moments to this work as the details of the regular work of the Society

takes up the larger part of our time. Results in the coin collection cannot be made known until the work is completed.

The following have been presented to the Society:

Mr. Eckstein Case. Two Early Ohio bills, one St. Louis bill.

Mr. N. A. Chapman. Fifty-four miscellaneous bank bills.

Mr. Wm. P. Palmer. Four Mexican bills.

Mr. George J. Schwartz. Seven Ohio Bank bills.

Mrs. C. C. Canfield. Four Roman coins, six Spanish coins, Indian Wampum.

Mrs. T. W. Hill. Sixteen early Japanese coins and a small collection of miscellaneous coins.

### NEEDS

There are one or two needs that seem to be more outstanding than others, and I simply call the attention of the Society to them as they should be looked after as soon as they can be.

The first is the installing of a vacuum system for cleaning the building. Ten years has made a great change in this respect. When the Society collections were first moved to University Circle, it was clean in this vicinity. This was before the advent of heavy motor trucks and automobiles. Now even with the windows closed, and the best of weatherstripping on them, the dirt continuously sifts through, due, I think, largely to the shaking of the building by these heavy trucks. Then in the summer time, when we are obliged to have ventilation through the open window, the atmosphere laden with soft coal, natural gas, and soot, together with the continuous dust raised by the passing automobiles, keeps the books constantly covered with dust, so that it is almost impossible to hand them to our patrons in the clean condition they should be. A system of this kind would probably cost in the neighborhood of \$1500 to \$2000, but it would well pay for itself not only in the preservation

of our books, but in being able to present them to the users of the library in a proper state of cleanliness.

The second need is that of further funds for binding. Last year we spent some \$250, and the year before the same amount, for binding some of our Historical Society publications and other serials. This immediately made available a number of valuable sets that were practically unusable before. Many of our newspapers are unbound, which is extremely detrimental to the papers when used in their present condition. These would be expensive to replace, and in fact many of them could not be, if once destroyed.

For a few years we could easily use from \$500 to \$1000 a year on necessary binding.

The third item we have already mentioned in our last report. This is the need of a stack room. The collections have been growing rapidly and are fast reaching the point where it will be impossible to accommodate properly, the incoming books unless we have better facilities. We have already taxed the facilities of the building to the utmost. We appreciate the fact that there are a great many demands at the present time, on everyone, still, this is something that should receive careful consideration from our officers and trustees.

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Material for the sketches of Colonel O. H. Payne and Leonard Schlather has not reached us in time to insert in this year's issue, but will be printed in next year's report.

# STATISICAL REPORT OF THE CATALOGING DEPARTMENT

May 1, 1917 to April 30, 1918.

Number of bound volumes accessioned during the year . . .	3768
Number of newspaper volumes accessioned during the year .	98
Number of pamphlets accessioned during the year . . . . .	1198
Number of volumes withdrawn during the year . . . . .	16
Number of pamphlets withdrawn during the year . . . . .	27
Last number in bound-volumes accession book . . . . .	46334
Number of bound volumes withdrawn to date, as duplicates or inappropriate for our collections . . . . .	4266
Number of newspaper volumes reaccessioned to date in the newspapers accession book . . . . .	*1627

Total number of withdrawals to be deducted . . . . . 5893

Number of volumes accessioned in general bound-volumes accession book remaining to date . . . . .	40441
Whole number of volumes accessioned in newspaper acces- sion book . . . . .	3075

Total number of accessioned volumes in library . . . . . 43516

Last number in pamphlets accession book . . . . .	14936
Number of pamphlets withdrawn to date . . . . .	518

Total number of accessioned pamphlets remaining . . . . 14418

Total number of accessioned volumes and pamphlets to  
date . . . . . 57934

There are also 163 volumes of manuscripts accessioned to date, in  
special manuscripts accession book.

\*The number of reaccessioned newspaper volumes deducted dur-  
ing the year 1915-16 (1620 volumes) was not included in the deduc-  
tions in last year's report, as it should have been. The error is now  
corrected.

About half of the Palmer collection is still unaccessioned, as  
well as some bound volumes of newspapers and Ohio state docu-  
ments. Other unbound and unaccessioned material include  
serials, annuals, college catalogues and bulletins, speeches,  
sermons, the Brodie collection of amateur journalism, the almanac  
collection, the unbound newspapers, and unbound state docu-  
ments.

Wallace H. Cathcart, Director

# CATALOGING REPORT FOR THE YEAR

May 1, 1917 to April 30, 1918.

No. for the yr.No. to date

New titles catalogued . . . . .	1869	17386
Volumes catalogued (L. C. titles) . . . . .	1654	13532
Volumes catalogued (not L. C. titles) . . . . .	777	4559
Total volumes catalogued . . . . .	2431	18091
Pamphlets catalogued (L. C. titles) . . . . .	279	3815
Pamphlets catalogued (not L. C. titles) . . . . .	191	3686
Total pamphlets catalogued . . . . .	470	7501
"Sheep-bound" set government documents checked . . . . .	0	3882
Manuscript volumes catalogued . . . . .	1	8
Newspaper volumes catalogued . . . . .	0	89
Total volumes, pamphlets, etc., catalogued .	2902	29571
Cards prepared for catalogue (L. C. printed)	5092	
Cards prepared for catalogue (typewritten) .	4229	
Total cards prepared for catalogue . . . . .	9321	about 65700
Temporary slips prepared and filed in cata- logue . . . . .	8000	
Depository cards delivered to Cleveland Public Library . . . . .	1712	

## TREASURER'S REPORT

## WESTERN RESERVE HISTORICAL SOCIETY

## RECEIPTS AND DISBURSEMENTS

YEAR ENDING APRIL 30, 1918

## RECEIPTS

May 1, 1917—Cash on hand.....	\$ 4,693.15
Subscriptions, May 1, 1917 to April 30, 1918.....	6,635.00
Special Contributions.....	11,223.67
Income from Endowment Fund.....	5,700.50
Miscellaneous Receipts.....	18.40
Hodge Fund.....	1,341.02
Interest on Deposits to April 30, 1918.....	72.91

\$29,684.65

## DISBURSEMENTS

May 1, 1917 to April 30, 1918.....	26,199.69
May 1st, 1918—Balance on hand.....	\$3,484.96

## DISBURSEMENTS

Subscriptions to Periodicals.....	61.46
Printing and Stationary.....	1,504.83
Salaries.....	9,492.94
General Expense.....	1,378.93
Light and Heat.....	658.18
Traveling.....	329.25
Building Account.....	4,065.45
Additions to collections.....	8,208.74
Hodge Fund.....	499.91

\$26,199.69

## SUBSCRIPTIONS

9 at \$250.00 each.....	2,250.00
5 at 150.00 each.....	750.00
5 at 100.00 each.....	500.00
6 at 50.00 each.....	300.00
5 at 25.00 each.....	125.00
271 at 10.00 each.....	2,710.00

\$ 6,635.00

Special contributors during the year were Messrs.

C. W. Bingham	Ralph King	F. F. Prentiss
J. D. Cox	Wm. G. Mather	Geo. B. Shepard
Estate of O. J. Hodge	D. Z. Norton	J. H. Wade
	Wm. P. Palmer	

A. S. Chisholm, Treasurer





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new lx

**Publication No. 99**

**Collections**

**of**

**The Western Reserve Historical  
Society**

**Organized 1867  
Incorporated 1892**



**1918**



Publication No. 99

COLLECTIONS

**THE WESTERN RESERVE  
HISTORICAL SOCIETY**

Issued December 1918

**The Movement for Peace Without a Victory  
During the Civil War**

**ELBERT J. BENTON**



**CLEVELAND, OHIO**

**1918**

US 25507.20

*ex*



*The Library*

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## ARTICLES OF INCORPORATION

### STATE OF OHIO

#### These Articles of Incorporation of THE WESTERN RESERVE HISTORICAL SOCIETY

*Witnesseth*, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation not for profit, under the general corporation laws of said State, do hereby certify:

FIRST. The name of said corporation shall be The Western Reserve Historical Society.

SECOND. Said corporation shall be located and its principle business transacted at the City of Cleveland, in Cuyahoga Conuty Ohio.

THIRD. The purpose for which said corporation is formed is not profit, but is to discover, collect and preserve whatever relates to the history, biography, genealogy, and antiquities of Ohio and the West; and of the people dwelling therein, including the physical history and condition of the State; to maintain a museum and library, and to extend knowledge upon the subjects mentioned, by literary meetings, by publication and by other proper means.

*In Witness Whereof*, We have hereunto set our hands, this seventh day of March, A. D., 1892.

Henry C. Ranney  
D. W. Manchester  
Amos Townsend,  
William Bingham,

Charles C. Baldwin  
David C. Baldwin  
Percy W. Rice,  
Jas. D. Cleveland,

A. T. Brewer

## THE MOVEMENT FOR PEACE WITHOUT A VICTORY DURING THE CIVIL WAR

### CONTENDING FORCES IN THE CIVIL WAR.

It is a common practice for writers on the Civil War to reduce the opposing forces to two, the South and the North, or Confederates and Unionists, and likewise to simplify the issues by condensing them to one word, slavery. There is enough truth in this view to satisfy many persons. It has the merit that it may be easily remembered. That it breeds superficiality and inaccuracy of thought does not seem to trouble the authors. It fails wholly to explain the motives and ideals of the hundreds of thousands in the South who supported the Confederate cause and of an astonishingly large number in the North who opposed the Unionists in the prosecution of the War without, in either case, having any direct interest in preserving slavery. It also falls short as an adequate presentation of the complex forces arrayed against the Government throughout the Civil War.

It is necessary for the purpose of this paper to recall that the Civil War was preceded by the secession of seven states, extending from South Carolina southward and westward along the coast, during the winter of 1860-1861. They were the states which were dominated by the cotton planters.<sup>1</sup>

Complex motives were present in their act of secession, but the decisive one was the determination that property in slaves should have access to the federal territories, and have the same federal protection as that extended to other forms of personal property in the territories. The gauntlet had been thrown down by the Breckinridge Democrats in the campaign of 1860, and accepted by the Republicans. The election of Lincoln on a platform which declared "that the

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<sup>1</sup> There were somewhere near 1,600,000 white families in the South. Less than 400,000 of these held slaves. Three fourths of the southern families held no slaves and had no direct interest in its continuation. About 10,000 families owned the great slave plantations and constituted the ruling class of the slave states. *The South in the Building of the Nation*, Vol.V, p. 117.



normal condition of all the territory is that of freedom" and denied "the authority of Congress, of a territorial legislature, or of any individuals, to give legal existence to slavery in any territory of the United States" effectually blocked the cotton planters' program. Lincoln's firm refusal during the winter of 1860-1861 to assent to a compromise in Congress upon the territorial issue strengthened the conclusion which the secessionists had reached that the Union as it was developing was no longer tolerable.<sup>2</sup>

Lincoln's inflexible attitude represented for the most part the views of the western element of the Republican party. Horace Greeley, an eastern Republican of great influence, editor of the *New York Tribune*, placed his popular journal on record for peace, virtually on the Confederate terms. "If the cotton States", he said, "shall decide that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless. . . . Whenever a considerable section of our Union shall deliberately resolve to go out, we shall resist all coercive measures designed to keep it in. We hope never to live in a republic, whereof one section is pinned to the residue by bayonets." "If the cotton States generally unite with her (South Carolina) in seceding, we insist that they cannot be prevented, and that the attempt must not be made. Five millions of people, more than half of them the dominant race, of whom at least a half a million are able and willing to shoulder muskets, can never be subdued while fighting around and over their own hearth-stones".<sup>3</sup> It is true that Greeley soon recanted his doctrine of peace-at-any-price, but not before incalculable encouragement had been given to disunion.<sup>4</sup>

<sup>2</sup> Lincoln took the position that the compromises proposed in Congress would not terminate the struggle between the North and the South over the territories; that the only compromise of any value was a federal prohibition against acquiring any more territory. Nicolay and Hay, *Complete Works of Abraham Lincoln*, January 11, 1861, Vol. VI, p. 93.

<sup>3</sup> *The New York Tribune*, Nov. 9, 16, 19, 30, 1860.

<sup>4</sup> *Ibid.* January 14 and February 2, 1861.

He continued throughout the war to seek peace otherwise than by the direct one of overcoming Southern resistance by military force. A negotiated peace, one without victory, became his highway to reunion. Greeley by no means stood alone among the Republicans. His was not an isolated, individual view. The thought of the loss of the southern markets paralyzed the combative organs of many an eastern merchant. Those whose sense of nationalism was slightly developed raised the white flag before secession. Henry Ward Beecher declared that he did not care if the southern states seceded, and that it would be an advantage for them to go off.<sup>5</sup> What William Lloyd Garrison and other extreme Abolitionists were saying interested relatively few. They were outside the pale. But within the innermost circles of the Republican fold, the self-appointed leader, the President-elect's choice for the premiership of the Cabinet, William H. Seward, was commonly classed with those who stood ready to renounce the Territorial clause of the Republican platform and to compromise with the cotton planters in order to maintain peace.<sup>6</sup>

What the historian has to record about the beginnings of the Civil War is that the rival policies of Radical Democrats and Radical Republicans precipitated the conflict. The decisive or aggressive forces before the fall of Fort Sumter were the cotton planters and the western farmers who had accepted Breckinridge and Lincoln respectively as their leaders. The real issue between them was to determine whether planters with black slave gangs or the sons of small farmers and artisans should have the homesteads of the prairie west. Both saw that the two labor systems were mutually exclusive. They had not been able to dwell in peace in Kansas. The tragic history of the poor whites of the South had established their in-

<sup>5</sup> *Address at Boston*, Nov. 27, 1860. *New York Tribune*, Nov. 29, 30, 1860. Rhodes, *History of the United States*, Vol. III, pp. 139, 141.

<sup>6</sup> Rhodes, *History of the United States*, Vol. III, p. 288, especially notes 2 and 3.

compatibility beyond a peradventure. And yet these forces which knew what they wanted and counted not too dear the cost constituted a clear minority of the nation. The great majority, with minds unmade, with hopes centered on compromises, ready for peace at almost any price, waited through the fateful passing months for a harmony of leadership which came too late. The Radical elements rallied around their leaders without hesitation as defenders of holy causes and stamped their opponents as aggressors. It is one of the tragedies of human history that so far both views could describe accurately a situation. The economic system which each represented called for new lands. Wild land was the raw material of the old agriculture. If the cotton planters were the more impatient and the more bitter it was because their institution was the more wasteful of land and their individual capital at stake, if land failed them, greater than that of the small farmers. Humanitarianism entered into both agricultural movements, but differed fundamentally in kind. The planters regarded the slaves, members of a larger family circle, as a race in its childhood which needed the discipline and protection of the slave system; and there their thinking stopped. The Republican farmers and merchants and artisans were anti-slavery in every sense, but not stimulated by any strong radical agitation such as had organized the Abolition movement of New England and other parts of the North.<sup>7</sup>

The fall of Fort Sumter and the call of President Lincoln for the state militia brought tumbling into the arena, as it were, two new forces. A middle group of slave states, North Carolina, Virginia, Tennessee, and Arkansas, seceded and joined the Confederacy. And why? Slavery in their limits was decadent. There was no dominant, aggressive cotton planter or other

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<sup>7</sup> A. C. Cole, *President Lincoln and the Illinois Radical Republicans*, *Mississippi Valley Historical Review*, Vol. IV, No. 4, March 1918, p. 417.

similar class planning to provide for the future of a basic labor system. A free labor system had, in fact, come strongly into conflict with the old slave system. But the idea that the federal union was a creature or servant of sovereign states, that the states could not be coerced, was a political fetish. The growing nationalism genuinely alarmed the persons who made States' Rights the basis of their political philosophy. Their interpretation of American colonial history, their reading of all history, although crude and inaccurate like that of their generation, convinced them that the beginning of all tyranny was in centralization, the security of human liberty in America, and for that matter in the World, bound up in maintaining unimpaired States' Rights. There is no use of quarrelling with the philosophy of another generation because we have drifted far from it. It is enough to take account of the fact. The doctrine that a state might not be coerced was the tenet which guided the middle group of slave states into secession. They would protest that their act came not because they loved the old Union less than their neighbors, but because they feared a new and uncovenanted union which threatened to take its place. States' Rights which was the main chord with the middle group of slave states was at the same time a minor one with the cotton group. Conversely, elements of the population of the middle group were directly interested in the perpetuation of slavery, or terrified at the idea of vast numbers of negro freedmen in their midst, and so joined their influence with the dominant one to resist what all feared in common, a new union and a new era. The central fact is that Lincoln's call for the state militia to enforce the federal laws and maintain the federal institutions was answered by the withdrawal of four states and the wavering of a group of border slave states—Delaware, Maryland, Kentucky and Missouri. One of them Kentucky, proclaimed its neutrality, and actually maintained the

novel status until neutrality was violated in September, 1861, by a Confederate army.<sup>8</sup>

In the end the border states remained in the Union, or perhaps in the case of Maryland the fact is more accurately expressed when it is said that it was restrained from secession. A large element of the population of the border states found ways of opposing the Administration in the prosecution of the War. One of the most common was to give their adhesion to another force arrayed in the Civil War. This was the movement of the Peace Democrats. The thought of this element like the dominant one in the middle group was glued to the States' Rights political philosophy. Each individual thought of himself as a defender of all that was institutionally precious. That he was sacrificing himself or his country to a passing theory of government he could not see. To him there were no Mt. Pisgahs from which to survey the passing ages. That he was an indirect ally of a slave oligarchy troubled him about as little as the alliances of the democracies of Europe with Russia in 1914 troubled them. All through the three slave sections poor white farmers whose economic life had been narrowed to the lowest standards by competition with the large slave gangs sprang to the aid of the cotton planters and the doctrinaires of States' Rights. The alliance was complete and whole hearted because it was based on long generations of common thought and persistent teaching in an isolated environment. The poor whites, too, feared the freeing of the negroes. They imagined, as others without number before them had imagined, a state of anarchy and violence and hard times in the South if by any chance the discipline of slavery were relaxed. A rough sketch of this kind does not do justice to the complex motives and fears of the Confederates. It only pretends to outline some main forces.

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<sup>8</sup> There is no story more strikingly illustrative of Lincoln's political sagacity and patience than his treatment of Kentucky at this crisis. See Rhodes, *History of the United States*, Vol. III, pp. 391-2.

There were others, such as run with the current of human history born of greed, and selfishness, and bitter memories, but they are of no great moment now. The significant fact is that the several elements of population which the Confederate statesmen cemented together thought of their Cause as one of defense.

IN 1861 President Lincoln rallied two organized political forces in support of his policy of forcible re-union. These were (1) the Republican Party as a whole and (2) a portion of the Democratic Party, the War Democrats. The Republican Party took the name Union Party in order to make agreeable the new alliance, though the camouflage only partially succeeded in its purposes. The War Democrats generally maintained their party organization and resisted the temptations of fusion. They supported the policy of forcible reunion; they had no sympathy with the Administration's ideas of policies toward slavery,—either the pledges with regard to the territories, or slavery in the States. They were uncharitable critics of the measures which the Government deemed necessary to accomplish its purpose. But they yielded an invaluable support to the main purpose of the Administration, which was re-union.

There were also the Abolitionists; the followers of Garrison and Wendell Phillips. To the Southerner, involved as he was socially and financially in a race tangle, they were hideous monsters. Did they not call his ownership of slave property a crime? And offer the remedy of confiscation? It is a fact that the Abolitionists took no account of history, and social systems, and racial progress, or elemental justice. To be sure, with most of them the end was to be achieved by the ballot. John Brown's race-war was a movement by itself. The South, however made the fundamental mistake of identifying John Brown's movement with Abolition, and both with that of the Republicans. Men who feared a social revolution should undoubtedly have a measure of consideration from History if

they could not draw clear distinctions. In reality, those who thought as did Lincoln were leaving the slavery of the States for the States to meet. They committed themselves, when once the War began, to the primary task of preserving democracy from the perversion with which secession threatened it. They had no intention of making the fate of slavery an issue of the Civil War. The Abolitionists, whether of the extreme variety who could not find satisfaction in one of the other parties, or more moderate, supported the President in the prosecution of the War. They did so, however, with the hope that Lincoln's policy would overtake their's and lead to the destruction of slavery. Lincoln's constructive policy with regard to slavery, announced in his message to Congress in December, 1861, combining a policy of state emancipation with national compensation to the owners and colonization of the freedmen, did not satisfy the Abolitionists.

A paper which enumerated the supporters of the United States at the North during the civil war and ignored the large population in the middle group of slave states, especially of western Virginia and eastern Tennessee, that fought in the Union armies would neglect an important factor of the Civil War. The mountain whites of the South were too much isolated to fear the freedmen, had been too long in conflict with the State authorities to be conscious of any attachment to States' Rights. Living the simple democratic life of the frontier they were instinctively out of sympathy with the slave oligarchies. It will suffice to think of this force as positively, and whole heartedly, Unionists. Its contribution to the War measured in percentages of volunteers to the total population exceeded that from the northern states.

#### THE PEACE DEMOCRATS

The menace of national disruption through the efforts of the seceding states was only one form of at-

tack on democratic government during the Civil War. The Government of the United States had to combat other forces, more insidious because less open and above board, and therefore really more dangerous ones. There was a danger of foreign intermeddling during the early months of the War. The Governments of England and France pressed the United States to accept mediation in order to find a basis for a negotiated peace. But all knew well that a negotiated peace meant a permanent disruption of the Union. The foreign powers even considered armed intervention. The Pope exhorted the Archbishops of New York and New Orleans to use their influences with their respective communities for peace; encouraged by the response of Jefferson Davis, the correspondence led the Pope to make the charge that the Government at Washington was to blame for the continuation of the War.<sup>9</sup>

Neither of the foreign powers exhibited any real appreciation of the great moral or social or political principles involved in the titanic American struggle. Their mistake may well be passed over. The particular Governments of Europe of that day had no sympathy with democracy as it was being worked out in America. And as for moral or social issues, it is open to question whether even the American people realized these at the time. Certain it is that to Lincoln in 1861 the issue was the simple one of restoration of the union.<sup>10</sup>

The most dangerous opposition which a cause may have is one which conceals itself, perhaps unconsciously, behind a pacifist group, or any particular group, and makes use of one or the other for partisan ends. In

<sup>9</sup> *Letter of Pope Pius IX to Archbishop Hughes*, October 18, 1862, published in the *Richmond Daily Whig*, August 7, 1863. Other letters of the correspondence in Richardson, *Messages and Papers of the Confederacy*, Vol. II, pp. 571, 603.

<sup>10</sup> Nicolay and Hay, *Complete Works of Abraham Lincoln*, Vol. VIII, p. 16. *Letter to Greeley*, August 22, 1862. "My paramount object in this struggle is to save the Union, and is not either to save or destroy slavery. If I could save the Union without freeing any slave I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery and the colored race, I do because I believe it helps to save the Union".



other words the party which takes advantage of a national crisis in order to achieve a success it could not win from a democratic people at the polls is the greatest menace a free people has to face. Such a party deliberately flouts democracy. It attempts to convert a democracy into an autocracy. The history of the Civil War was complicated by the persistent activities of just such a party.

A portion of the northern Democracy, especially large in the Old Northwest, openly opposed the prosecution of the War by the Administration.<sup>11</sup> Because of the fact that the movement demanded that the Administration stop the War, and that the membership was drawn from the old Democratic party the name the Peace Democratic Party has been given it. Breckinridge received 279,211 votes in the free states in 1860; this element was a natural nucleus of a northern party of opposition. The opponents sneeringly called its members "copperheads", or identified them with the Confederates by the common appellation of "butternuts".<sup>12</sup>

Fernando Wood, Mayor of New York, and his brother, Benjamin Wood, publisher of the New York News and a member of Congress, made themselves spokesmen of a faction of Peace Democrats in the East. Fernando Wood proposed at the beginning of the Civil War that New York City proclaim itself a free city, a sort of a Lübeck or Hamburg in the federal union, and retain its trade both with the United States and the Con-

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<sup>11</sup> The South, too, had its Peace Parties. At one time in North Carolina and Georgia the activities of such an opposition gave the Confederate authorities considerable embarrassment. The movement seems to have been the work of a dormant Union element stirred to life by local leadership. See the *Richmond Daily Whig*, February 19, 1864, for a brief account.

<sup>12</sup> A satirical poem published in Philadelphia, 1863, worked out in seemingly endless verses the theme of contempt of the Unionists for the Copperheads.

"Ye 'sneak' is a sly bird. Ye rattle-sneak, indeed, hath some chivalry, if it is in his tail; but ye Sneak/yclepid 'Copperhead' hath none." etc.

There was an appropriateness in the term "butternut" for both the confederates and the Peace Democrats. Both drew their strength in numbers from the poorer whites of the rural South and West who by force of circumstances wore homespun clothes dyed from the butternut.

federacy. "Thus", according to the Mayor's vision, "We could live free from taxes, and have cheap goods nearly duty free."<sup>13</sup> But the chief elements of the Peace Democrats were located in the Ohio valley, decreasing in density of numbers as the distance northward from the Ohio river increased. The evidence connects the class with the immigration stream which had moved like an overflowing flood from the South to the north side of the Ohio River. The area in Ohio comprehended by a line drawn through Dayton, Hamilton, Chillicothe and Cincinnati, the river counties of Indiana and Illinois, and their neighbors, were the strongholds of the party.<sup>14</sup>

The rank and file of the Copperheads were the smaller farmers and poor artisans of the region, if measured by accumulated wealth. They like the poor whites of the South saw another vision from that which the followers of Lincoln saw. The latter saw the expansion of their agricultural system across the fertile prairies of the plains balked by expanding slave areas. The former saw a black horde of freedmen, a veritable black peril, sweeping from the southland across the Ohio into the free farming regions of the Ohio Valley.<sup>15</sup> All those social forces which count with a people—environment, tradition, decades of teaching from platform, press, and pulpit—were bearing their natural fruit in the Ohio Valley. It is the tragedy of this Conflict in the Northwest that the votaries of both sides thought of their causes as defensive ones, and from the point of view of each it was so.

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<sup>13</sup> McPherson, *History of the Rebellion*, p. 42.

<sup>14</sup> *The Census of 1860* showed that about six per cent of the white population of Ohio were immigrants or the descendants of immigrants from slave states, chiefly from Virginia and Kentucky; about twelve per cent of Indiana, chiefly from Kentucky, Virginia, North Carolina, and Tennessee; about ten per cent of Illinois, chiefly from Kentucky, Tennessee, Virginia and North Carolina; about 25 per cent of Missouri, chiefly from Kentucky, Tennessee, Virginia and North Carolina.

<sup>15</sup> The Democratic newspapers kept the menace of the freedmen always before their readers. *The Columbus Crisis*, October 29, 1862, contains a typical article.

There was a close analogy between the line of reasoning of the Copperheads and their poor white kinsfolk of the South. Without doubt, if the Copperheads had had the balance of power in the Northwest as they had in Kentucky they would have made the whole section neutral, or, if they had been in the majority as in North Carolina they would have swung the Northwest into an alliance with the Confederacy. It was inevitable that they should number among themselves some that were the conscious agents of the South and some whom the loss of peace-time markets during the early stages of the War and the consequent hard times drove into the opposition party. The newspapers of the river towns stressed the losses from the cessation of the old trade. The Cincinnati Gazette estimated at the close of 1861 that the loss of the southern market for bacon alone meant a loss of \$6,000,000 to the farmers of the Northwest.<sup>16</sup> To those who were more concerned about the recovery of the old river commerce and plantation markets than about rival labor systems or social structures, peace-at-any-price had a commercial background. Once the South seceded and set up a barrier to river commerce, the event worked two ways. To the Peace Democrats of the Ohio Valley it stimulated a movement for peace in order to have back old markets on the basis of restoration; to the Unionists it stimulated a war of conquest. The varying points of view arose from the respective doctrines of States' Rights and Nationalism.

The Peace Democrats of the Northwest had an active, cunning leadership. The names of only a few have survived the oblivion which history allows to those who grievously err. The high priest of the faction was Clement L. Vallandigham. He was of Huguenot and Scotch descent; the scion of families early transplanted to Virginia, and thence to Ohio; Presbyterian and Democrat by forces as immutable in such minds as any laws

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<sup>16</sup> See, for example, the *Knoxville Daily Register*, June 12, 1862.

of nature. He inherited a fixed philosophy of life. His was one of those minds that instinctively fear innovation, whose eyes were on the past, whose faith clung to established institutions and time worn customs. The dogmatic assurance and inflexible purpose of his kind were entrenched in a cold and selfish personality. As a man he stood apart from others, set off by an arrogance and egoism, which would neither take council of man or God.<sup>17</sup> And yet somehow he possessed a

<sup>17</sup> The following letter from the brother of Vallandigham's mother, besides giving an interesting glimpse of Maryland life in the 30's, reveals much of the heritage of Vallandigham. The original is in the Vallandigham Collection of manuscripts, letters, etc. in the Library of the Western Reserve Historical Society.

Parsonage, Trinity Parish Charles Co. Maryland  
Saturday night Nov. 17, 1832.

Rev: C. Vallandigham.

Dear brother. The period of life & the grade in the Ministry of reconciliation to which I have attained, intimate, nay urge, the propriety of surrendering my juvenile enmities. The reflection that I had alienated those toward whom nature duty and interest bound me to cherish pacific feelings, has incurred many a pang of regret. I am, therefore, constrained to make this overture to you. You are excusable for not having superceded its necessity—as you have not known the particular place of my present residence. You will, doubtless, respond in a spirit similar to that in which I write\*\*\*\*\*It will very probably, interest you to become acquainted with my present condition and future prospects. I was elected Rector of this Parish, upon the 3<sup>d</sup> of June 1830—but was prevented by the extreme sickness of my eldest, (then only) child from taking charge of it until the 21. of the ensuing August. This parish is twenty miles in length & its medium width is nine miles & contains over two hundred families. In it are two brick Churches, erected some seventy or eighty years since, which have been rebuilt. They are situated twelve miles from each other. The Glebe, upon which I live, contains 300 acres, two-thirds of which are enclosed, and upon it are erected a Parsonage, Negro house, Corn & Meat house, Tobacco barn et ceaterea. The Parsonage, a brick house of eighty years erection, is a substantial, neat house. It is five miles distant from my Parish Church & seven from my Chapel. The Vestry employed me the first year for \$435 and the use of the Glebe, worth \$200. The second year they gave me 500\$ & use &c. The present year they will give me \$600 & use &c. My perquisites are worth 200\$ per annum—so that my present salary is 1000\$. Since resident here I have baptised 250 infants, married twenty-seven couples (for which I have rec<sup>d</sup> \$230—some of them were slaves, & preached thirty-six funerals, (for which I have rec<sup>d</sup> 270\$) During last Convention year namely from May 31<sup>st</sup> to May '32, I buried 81 persons. Sickness & Mortality always great was unusually so last year. I rode down two horses during our Autumnal sickness & in Jan<sup>y</sup> & February the Pleaurasy prevailed to an alarming extent. My own general health has improved since I removed hither. My breast affection has partially, if not totally subsided. In last May & June I passed thr'o a severe acclimating—having sixteen Agues and fevers in succession: Since when I have enjoyed excellent health. My good lady has not been one day unwell since we removed hither. Blessed be God, health has been extraordinary thr'o my parish this year. W have escaped the autumnal fevers. This phenomanon is attributable, so far as human means are concerned, to the uncommon prudence in dieting & cloathing, which people here practised as a preventive of the Cholera.

grace of bearing and powers of address which captivated those who came within his sphere. College education, legal studies and practice in the courts, and editorial experience on the Dayton Empire failed to liberalize his ways of thinking, but from their training he developed a power of expression, the eloquence of the political platform, in which few of his generation surpassed him.

In 1857 Vallandigham entered Congress. The Civil War found him among those who first sought to mediate between the forces in the Union which were struggling with fixed purposes, and, failing in efforts at compromise, made themselves the "wilful obstructionists" of the time. But the fact that the group threw themselves against the forces which were struggling in Congress and out with fixed purposes does not mean to im-

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That fearful complaint reached Port Tobacco, our County town, yet we have been mercifully spared. There have been only fifteen cases, all however have been fatal. I have been advised of its prevalence in Cincinnati.\*\*\*There are some differences between Penn<sup>a</sup> (and indeed the whole North) and Maryland, to the advantage of the latter. There is an intelligence, a nobleness of spirit & a sentimental delicacy found in our Country Parishes here which are not prevalent in the North. The existence of slavery furnishes time to the rich to cultivate their minds & to cherish fine feelings. It deepens the divisional lines between the heart & the extremities of Society. It precludes associations with the lowest class which are calculated, eminently so, to inspire those of the higher class with mean opinions of themselves & to arrest them in the noble march of honorable ambition. To descend to all the menial offices of a domestic, must tend to degrade a classical youth in his own estimation & to check his noble aspirations after dignified, hallowed manhood. How it must subvert his idea of meritorious distinction, to behold the greasy cook & the sooty shoe-black seated around the family board with himself? While Society moves it must have extremities, as while a man walks, he must have legs, as, therefore, there must be servitude. I cannot conceive of any species of it so suitable to the general wants particular & lasting comfort of society, as slavery is. The bond & the hired servant may one day become a master & an employer. This, each holds in prospect, which unfits him for faithful service. Will he cherish the appropriate feelings & discharge the indispensable duties of his rank, when he beholds himself, thro' the short vista of a few years, clad with all the prerogatives of authority? Will he reverence him, from whom he considers himself nothing different, except in a temporary degradation? Will he cherish an obedient spirit toward him whom he regards as dressed in the brief authority of a few years—Submission, reverence & obedience to his master, & attachment to his person & regard for his interest (all indispensable in every servant) animate the bosom of the slave. They are but seldom found in bond or hired servants. The expectation of future promotion, which their temporary servitude allows them to entertain, inflate their vanity, & therefore, extinguish their submissive spirit & produce discontent. It is an argument of inconsiderable force for the perpetual obligation of matrimony, that it reconciles the contracting parties to many inconveniences which necessarily grow out of that state—so, interminable servitude adapts its subject to his condition. But—enough—I am now

ply that their movement was aimless. It was the aggressiveness of the Peace Democrats which made their movement the potent force and the menace which it was. The public policy of Vallandigham and his followers was based on a theory of the economic sectionalism of the United States.

"Sir, we of the Northwest", he exclaimed in Congress during the debates over compromise, "have a deeper interest in the preservation of this government in its present form than any other section of the Union. Hemmed in, isolated, cut off from the seaboard upon every side; a thousand miles and more from the mouth of the Mississippi, the free navigation of which under the law of nations we demand, and will have at every cost; with nothing else but our great inland seas, the

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employed in collecting & arranging materials for the Latin controversy, which will embrace all the points in dissimilarity in doctrine & practice between the R. Catholics & Protestants—In a recent sermon I encountered & combatted & (without vanity may say) confuted the Dogma of Purgatory—Of brother Robert I hear nothing. Were he to duly revolve my circumstances at the time I opposed him, he would promptly forgive any extravagance of which I might possibly have been guilty. The last letter I rec<sup>d</sup> from him, he very uncharitably insinuated that I had been guilty of dishonesty toward John Gillespie! Credat Judeus Apello—non ego—

My family now consists of M<sup>r</sup> Laird, Claudius Horace Binney, John Henry, & a daughter born the 28<sup>th</sup> Ultimo, who is not yet baptised, therefore anonymous. Let me know if our Estate at Racoon has been finally settled & what yet remains for me. I left a Note upon M<sup>r</sup> Whitacre calling for 6\$, with M<sup>r</sup> George Graham. I wrote to him respecting it but have not rec<sup>d</sup> an answer. Ask him of it. Let me know of yourselves & little ones. M<sup>rs</sup> L. joins me in expressions of affectionate regards for you all. God bless you all.

Francis H. L. Laird - -

My address is Rev. F. H. L. Laird Rector of Trinity Parish (Charles Co.) Charlotte Hall P. Office St. Marys Co. Maryland. Be particular to use this direction. Please write soon. P. S. A few weeks since I saw your cousin & my particular friend M<sup>r</sup> Thomas Beden of Prince George's Co. He is an old but lively bachelor—He is now in the attendance upon the races at Port Tobacco.

Upon Monday I shall be engaged & tuesday is our mail day—therefore I write tonight. Next tuesday, I shall, God willing, marry a lady worth 30,000\$ to a brother Parson. The highest marriage fee which I have rec<sup>d</sup> is 25\$ in gold & the greatest for a funeral \$50. Ten is the common charge for each.

I have not time to review this hastily written letter—Excuse its inaccuracies.  
Charlotte Hall M<sup>r</sup> Affectionately y<sup>r</sup>'s &c.

Nov<sup>r</sup> 20

To the Rev. Clement Vallandigham  
Pastor of the Pre<sup>r</sup> Church  
New Lisbon  
Columbiana Co.  
Ohio.

lakes—and their outlet, too, through a foreign country—what is to be our destiny? Sir, we have fifteen hundred miles of southern frontier, and but a little narrow strip of eighty miles or less from Virginia to Lake Erie bounding us upon the east. Ohio is the isthmus that connects the South with the British possessions, and the East with the West. The Rocky Mountains separate us from the Pacific. Where is to be our outlet? What are we to do when we have broken up and destroyed this Government? We are seven States now, . . . . . and a population of nine millions. We have an empire equal in area to the third of all Europe, and we do not mean to be a dependency or province either of the east or of the South; nor yet an interior or second-rate power upon this continent; and if we cannot secure a maritime boundary upon other terms, we will cleave our way to the sea-coast with the sword. A nation of warriors we may be; a tribe of shepherds never”.<sup>18</sup> Such was the theory of the Peace Democrats: the Northwest was bound in economic interests more closely to the South by river highways than to the Atlantic coast. It was a theory which had described a condition a decade earlier, but the construction of trans-Alleghany railroad connections and a network of lines throughout the Northwest had altered the entire economic structure of the United States.<sup>19</sup> Of these changes the leaders of the Ohio Valley Democracy were apparently oblivious.

On February 20, 1861, Vallandigham attempted to formulate a congressional policy of federal reconstruction which would peacably win back the allegiance of the seceding states, satisfy enough in the North, and have the added merit of establishing his doctrine of economic sectionalism. The plan was to recognize in an amended constitution four sections—a North, a West, a Pacific,

<sup>18</sup> *Congressional Globe*, Part 1, 2nd sess. 36th Cong., 1860-61, December 10, 1860, p. 38; *Vallandigham's Speeches*, p. 258.

<sup>19</sup> See the article by Frederic L. Paxson, *The Railroads of the Old Northwest before the Civil War*, *Transactions of the Wisconsin Academy of Science, Arts and Letters*, Vol. XVII, Part 1, Oct., 1912.

and a South section—and to make the assent of a majority of the Senators of each section requisite for the passage of laws under certain circumstances. Likewise the Electoral College was to be reconstructed and a majority of the electors in each of the four sections be necessary for the choice of President and Vice-President. Secession was to be recognized as a legal right, but regulated, as it were, for the act would be valid only when it had the sanction of the legislatures of the states constituting the section of the seceding state. The scheme was Calhoun's concurrent majority rule in a new form.<sup>20</sup>

There is no evidence that the Vallandigham project of federal reconstruction as a peace-bait or as a political program received more than a passing consideration in Congress. Unsuccessful in his own leadership, unable to accept that of another, Vallandigham fell back in Congress on the natural recourse of his type. His record until his retirement in 1863, when he was defeated for re-election, was uniformly that of an obstructionist.<sup>21</sup> And yet he and his associates undoubtedly sincerely thought of themselves as the only real Unionists and of Confederates and Republicans and War Democrats as disunionists. But the Union of which they thought was one the Democratic Party had presided over for nearly a generation; it was the union of compromises with slavery, of weak nationalism, and of strong States' Rights. The Constitution as it is and the Union as it was formed the watchwords of the Peace Democrats. The fact that the old Union could not be restored, that neither of the radical forces—the cotton planters, the western Republicans, nor the Abolitionists anywhere—would ever accept such a restoration, ex-

<sup>20</sup> *Congressional Globe*, Part 1, 2nd sess. 36th Cong. 1860-61, p. 794; *Speeches, Arguments, Addresses, and Letters of Clement L. Vallandigham*, p. 298.

<sup>21</sup> The Unionist made use of this record for campaign purposes. The following pamphlets are typical: William A. Cook, *The Peace Democracy*, 1863; *Complicity of Democracy with Treason*, by the Ohio State Journal, 1865; *The New Hampshire Peace Democracy*, n. d.



cept by force, was beyond the ken of the Peace Democrats. And that other great fact of democratic government, that a majority must rule and the minority bow when the decision has been made by the constitutional authorities or Republican government become the weakling which autocrats say it is the Peace Democrats ignored. They held to their peace illusions, and persisted in their assumption that the Confederates could be brought back into the Union by negotiations until the end. In dealing with them it is impossible to be patriotic and charitable at the same time. It is too apparent that they saw back of the impending struggle an opportunity to force on the American people a partisan theory of government. That they believed in their doctrines passionately, even piously, only convicts them of bigotry. Like the Bolsheviki of Russia in 1917 and 1918 the Peace Democrats were willing to force the acceptance of a partisan policy, cost what it might.

To the Peace Democrats the Abolitionists of New England were a peculiar sort of *bete noir*. It is true, the Abolitionists disturbed the settled order of historical compromises over slavery, and assailed the doctrine of States' Rights. But Confederates and Peace Democrats alike greatly erred in exaggerating the numbers and influence of the Abolitionists, and in identifying their policy with the homestead policy of the Republicans. They more grievously erred when they ignored the readiness of the Republicans and the War Democrats to guarantee slavery in the States where it existed from Congressional interference,<sup>22</sup> and failed to appreciate the magnanimity of the constructive policy which Lincoln formulated for the future of slavery.<sup>23</sup> The confusion of the Republicans with Abolition in 1861 was perhaps inevitable. There were enough radical Re-

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<sup>22</sup> A thirteenth amendment put forth with the consent of Republican and Democratic leaders in March, 1861 would have effectually blocked any attack on slavery in a State by Congress.

<sup>23</sup> See *Message to Congress*, December 3, 1861. *Richardson, Messages and Papers*, Vol. VI, p. 44.

publicans like Charles Sumner and John C. Fremont to confuse the most clear headed on the extent to which Abolition had captured the Republican Party. The Peace Democrats undoubtedly believed that the War was one of New England making. They persistently charged that it was a Capitalists' War. And the "Shoddy" work of some wool manufacturers gave them an excuse for the charge.

"Struck by "shoddy"; and not by "shells",  
And not by shot our brave ones fall;  
Greed of gold the story tells,  
Drop the mantle and spread the pall.  
Out on the vampyres! out on those  
Who of our life blood take a fill!  
"No meaner "traitor" the nation knows,  
Than the greedy ghoul of the shoddy mill!"

So the Copperhead minstrel sang.<sup>24</sup> As a challenge to the Administration to clean its stables it would have been a service of high patriotism, as a statement of the causes of the War it was stupidly false, to say the least. The Peace Democrats fitted their doctrine of the cause of the War into their political program. The War was interpreted as a sectional one. As New England business men were forcing a war for markets for wool, shoes, iron, etc. in the Northwest, the section should rise to its own defense. The Peace Democrats gave themselves over to the task of arousing the sectional consciousness of the Northwest. How far they were self-deceived and how far they were unscrupulously fitting a situation to a political program is an insoluble problem. It is probably wiser to give them the benefit if the doubt, admit their sincerity of purpose, and leave the measure of their sanity of judgement and statesmanship to the tender mercies of a charitable posterity.

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<sup>24</sup> *A Choice Collection of Democratic Poems and Songs*, New York, 1863, p. 28.

There is a great similarity in all the pronouncements of the leaders of the Peace Democracy. Vallandigham spoke and wrote ceaselessly, and supplied his followers with material from which to draw inspiration. Samuel Medary, editor of the *Columbus Crisis*, conducted a weekly newspaper in the interest of the party. That the *Crisis* survived the censor or complete suppression for its billingsgate attacks on the Government and misrepresentations of every act is one of the puzzles of the period. The Peace Democrats propagated their doctrines through a host of local newspapers and party conventions. The *Cincinnati Enquirer*, The *Chicago Times*, the *Indianapolis Sentinel*, and the *Dayton Empire*, to mention only a few of the more conspicuous journals, continuously voiced the sentiments of the faction of the Democratic Party. Wherever the Peace Democrats won control of the organization of the Democratic organization county and district and state conventions were made to pass resolutions which gave expression to the movement. There was no difficulty in finding media of communication between the leaders and the people. In February, 1861, the *Cincinnati Enquirer* took its stand. "If Lincoln's Administration wants money, it must compromise. . . . Coercion is disunion, now and forever". The Fairfield (Ohio) county convention rang forth "millions for defense, but not one cent for the coercion of sovereign states".<sup>25</sup> When Lincoln called for 75,000 volunteers the Ashland Union replied, "Fight your own battles We have only to say to you, gentlemen, this is not our fight; you have followed your own councils; you must do your own fighting. . . . The Administration leaders have succeeded in their unhallowed work of destroying the Government and Union. They have robbed us of our National Union—and shall we (the Democracy)

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<sup>25</sup> A pamphlet, *Complicity of Democracy with Treason*, published by the Ohio State Journal, 1865, is an interesting compilation of newspaper declarations and local convention resolutions in endorsement of the platform of the Peace Democrats.

give our blood to their service to consecrate the crime? . . . The Democratic newspapers of the country today, refusing longer, in any manner, to pander to the interests of the abolition traitors of the North, will rise in their might and beat back the tide of desolation that threatens the land."

The Coshocton Democrat said; "The North is in direct Rebellion against the Constitution and Laws of the United States! . . . We do not believe Southern Generals ever had any idea of attacking Washington—they desire only to protect their own rights, liberty, and property. If they cannot do it without dispersing the scoundrelly usurpers in that City, they may attempt to take it." The Crisis harped on the gross "criminality of New England measures and New England men in fomenting the sectionalism which has begotten this most unhallowed and barbarous war and destroyed the nation."<sup>26</sup> The Old Guard, a monthly magazine, was published in New York to promote the views of the Peace Democrats—devoted, it announced to the principles of 1776 and 1787. "Had Lincoln", it asserts in one of its early numbers, "confined his acts within constitutional limits, and attempted no deed not authorized by that sacred instrument, not only should we have been spared all their bloodshed and debt, but the Union would have been saved".<sup>27</sup> The same magazine described the War as one of "Abolition and plunder", conducted by the "besotted tyrants in Washington".<sup>28</sup> Samuel Medary made the Crisis describe the "whole atmosphere of Washington City" as "bedimmed with error, mischief, and ideas of a future monarchy".<sup>29</sup> The Cincinnati Enquirer again and again referred to King Lincoln and the Revolution he had selfishly led. The Democratic Convention of Huntington County,

<sup>26</sup> *The Crisis*, Columbus, August 5, 1863.

<sup>27</sup> *The Old Guard*, Vol. I, No. 2. p. 45.

<sup>28</sup> *Ibid.* Vol. I p. 23. Vol. II, p. 1.

<sup>29</sup> *The Crisis*, April 9, 1862.

Indiana, solemnly resolved "That Tyranny and Cowardice are monsters of the same birth, and now as ever seek to entrench themselves behind the military; and that the keeping of the army lately so wickedly and unconstitutionally raised, and now under command of abolitionists and unscrupulous adventurers, is inconsistent with the liberties of the people, and already presents the frightful proportions of a Military Despotism".

"God save our wretched land,  
From Lincoln's traitor band,  
From wo and blight;  
Make all the people brave,  
To shout o'er land and wave,  
Arise, our homes to save,  
In freedom's might."

All "patriotic families" were asked to sing these words, set to the tune of America, every night.<sup>30</sup> It would be better to overlook a great part of the literature of the movement as the work of disordered brains, of perverted imagination, or of opposition of a time when conventional language was more picturesque and less considerate than modern journalism were it not that it formed the material on which a great population was fed and misled. The newspapers of Peace Democrats gave little space to Union achievements and exaggerated Union disasters. The whole nation was represented as "in a state of consternation, and crying for peace, or something that will put a stop to the awful waste of life and property".<sup>31</sup> The Crisis of July 8, 1863, published an article on "How the Confederates Treat their Enemies", which gave concrete illustrations of the generosity of the South toward the wounded captives. The article was followed by an-

<sup>30</sup> *A Choice Collection of Democratic Poems and Songs*, p. 51.

<sup>31</sup> *Official Records*, Series II, Vol. VII, p. 724; *The Old Guard*, Vol. I, no. 1, p. 1; *The Crisis*, February 11, 1863.

other one headed—"Barbarism and the War"—which charged the Government of the United States with a "terrible systematic ruining and beggaring of hundreds and thousands of innocent, helpless, and unoffending women and children". The silence of a newspaper on the achievements of the Union armies after a critical engagement had been foreshadowed was often made to serve the propaganda of the movement effectively. A collection of democratic poems and songs was published in cheap pamphlet form and widely circulated for the use of the faithful in political clubs and social circles. They were well calculated to break the spirit of a people. There was a monotonous strain throughout the series. Defeat, bloodshed, and woe, senseless and hopeless strife echoed and re-echoed from page to page. A stanza from the "Song of the Sword" as a parody on the "Song of the Shirt" may stand for the series.

"Weary and wounded, and worn,  
Wounded, and ready to die,  
A soldier they left, all alone and forlorn,  
On the field of the battle to lie.  
The dead and dying alone,  
Could their presence and pity afford  
Whilst with a sad and terrible tone,  
He sang the song of the sword".

Or this:

"We are coming, Abraham Lincoln,  
From mountain, wood, and glen;  
We are coming, Abraham Lincoln,  
With the ghosts of murdered men.  
Yes! we're coming, Abraham Lincoln,  
With curses loud and deep,  
That will haunt you in your waking,  
And disturb you in your sleep."

There's blood upon your garments,  
 There's guilt upon your soul;  
 For the lust of ruthless soldiers  
 You let loose without control;  
 Your dark and wicked doings  
 A God of mercy sees;  
 And the wail of homeless children  
 Is heard on every breeze."<sup>22</sup>

The remedy for secession and Civil War was most simple in form. "Withdraw your armies, call back your soldiers, and you will have peace", Vallandigham roared from the platforms of the North. The resolutions of a convention in Shelby County, Indiana, are typical of the constructive program of peace Democrats. "That we earnestly recommend a cessation of hostilities for such a period as may be necessary to allow the people of the North and the South to express through a National Convention, their desire for peace, and a maintenance of the Union as it was and the Constitution as it is". It was a line of thought that caught quite a net full, what with pacifists, partisans and paltrons. A cursory reading of southern newspapers would have taught them all the self-deception in the remedy. The South scouted Vallandigham's Northwestern mediation so far as it had reunion as its goal. They naturally encouraged whatever of opposition to the Administration of Lincoln they found in the movement.<sup>23</sup>

The Peace Democrats found nothing to praise in the conduct of the War by the United States. To turn the tables and class the Peace Democrats as pro-southern would be inaccurate. Just as the Confederates and

<sup>22</sup> *A Choice Collection of Democratic Poems and Songs*, New York, 1863, pp.5, 13.

<sup>23</sup> See, for example, *The Augusta (Georgia) Daily Constitutional*, Jan 27, 1863; March 12, 1863, May 27, 1863, *The Knoxville Daily Register*, July 7, 1863; *The Staunton Spectator*, July 7, 1863. The only part of the South where the newspapers show any interest in reunion along the line Vallandigham was leading is in those portions in close economic bonds with the Northwest, mainly the southern half of the Ohio Valley.

Peace Democrats constantly made the error of identifying Lincoln and the Republican Party with Abolition during the early years of the war, the Republicans and the Abolitionists classed all Democrats with the Peace Democrats, and the latter as one with Confederates. The Peace Democrats sought the defeat of both Unionists and Confederates. A War without victory was vital to them. It was the only manner in which the old Union could be restored. The victory of the South, they clearly saw, meant permanent separation. Such an alternative left the Peace Democrats in a new United States a hopeless minority. A victory of the North they more clearly saw than did others at the time, meant a new Union-centralized, nationalized, with slavery abolished. If the War could be made a stalemate there was a way to make the Councils of the Peace Democracy count in a decisive manner. A patched up peace meant to them a restored Union. The cold clear logic of Vallandigham is unimpeachable.

The Peace Democrats were approximately neutral on slavery. Vallandigham's wife was the daughter of a Maryland planter. He had seen slavery at its best. He imagined the worst which the human imagination could conjure for society with the negroes as freedmen. His friends claim that he believed that slavery would gradually pass with time as the voluntary work of the slave states without any shock to our political system, and that this was the only logical or proper way for it to happen.<sup>24</sup> There is again in this position a wisdom of council which if timely offered would have done its author credit. But once that Civil War had begun it made it seem that the gospel of peace, which its author was preaching, was the cloak of indifference to the issues with which cotton planters and anti-slavery people were struggling. Certain it is that neither Vallandigham nor any of the others in his party saw any possibility for good to come from the life and

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<sup>24</sup> James L. Vallandigham, *Life of Clement L. Vallandigham*.



death struggle between the oligarchic political and social system of the South and the democratic structure of the Northwest in which the whole nation had become involved.

### THE SECRET POLITICAL SOCIETIES

The Peace Democrats were not content to depend on the loose and divided organization of the old Democratic party for the promotion of their purpose. The perpetual struggle with the War Democrats in party councils easily turned the Peace Democrats into secret organizations which they fully controlled. There were precedents for the organization of secret oath-bound orders with signs, grips, passwords, and rituals in order to accomplish a political purpose. The Know-Nothing or Native American Party had flourished for a time like a green bay tree on the model of the popular secret orders of the day. Southern Rights Clubs had sprung up from 1852 to 1855 in the South as a reply to the Personal Liberty Acts and the Underground Railway of the North. The Southern Rights Clubs did not rest their case with defensive measures, but they or branches of them like the order of the Lone Star, undertook the Americanization of the neighboring lands around the gulf of Mexico-Cuba, Mexico, and Nicaragua by means of filibustering expeditions. About 1855 some of these secret societies of the South took the name of the Knights of the Golden Circle. The Peace Democrats borrowed the organization, ritual, name and all of the Knights of the Golden Circle for a movement that would have reason enough to resort to the protection of secrecy. Societies were formed in the North in 1861; it was not until 1862 that the spread of the secret societies over the Northwest reached the point where it alarmed the Unionists and stimulated in turn a counter organization of Union

or Loyal Leagues.<sup>35</sup> The organizing instincts of the American were never better illustrated in the rival activities of the two movements. The Loyal Leagues were open, public, advertised; The Knights of the Golden Circle or whatever the name, for there were many, were shrouded in the deepest mystery.<sup>36</sup> Even the fact of the existence of such associations were denied by the Peace Democrats throughout the early period of the War.<sup>37</sup> As government detectives gained entrance into the societies and the evidence which they gathered threatened to become the basis of prosecution of the more radical leaders for treason efforts were made to eliminate the federal agents and other undesirable elements by reorganization under new names, new rituals, and new passwords. In 1863 the prevailing name in the Northwest was the "Order of American Knights", in 1864, the "Sons of Liberty". There was much looseness in the use of names by contemporaries. Those who were not initiates in the secret orders commonly spoke of them as "butternuts" or "Copperheads", and jumbled Peace Democrats and Confederates and secret societies together in one happy family.<sup>38</sup>

<sup>35</sup> The name taken by the organizations varied considerably, the prevailing one in the Northwest through the first two years was the Knights of the Golden Circle. On May 7, 1861, twenty-five citizens of Bombay, N. Y., organized to oppose the War, and took the name Sons of Liberty. See *Official Records*, Series II, Vol. 2, pp.951-952. Other instances of early organization will be found in the *Official Records*, Series II, Vol. 2, pp. 193-4, 223, 1247-9, 1253-4. See the excellent study of Dr. Mayo Fesler, "*Secret Political Societies in the North during the War*", in *Indiana Magazine of History*, Sept. 1918, p.183ff.

<sup>36</sup> Among the names taken by the secret societies were—"The Mutual Protection Society", "The Circle of Honor", "The Circle", "The Knights of the Mighty Host", "The Corps de Belgique" in Missouri, and the "Peace Organization" in Illinois.

<sup>37</sup> *The Crisis*, Columbus, August 13, 1862. *The Crisis* of February 18, 1863 declared that dangerous secret union leagues were being formed, and that the Democratic organizations were open, political bodies.

<sup>38</sup> There is a mass of material, chiefly the reports of the Government detectives, in the *Official Records of the Rebellion*. Ben Pittman, Recorder to the Military Commission edited under the title "*The Trials for Treason at Indianapolis*" the Proceedings of the Commission in the trial of the members arrested in 1865, the testimony of the witnesses at the trial, and many documents connected with the history of the associations. Many articles were written in the newspapers

Whatever the name, the societies enlisted as many Peace Democrats as they could induce to pay the small admission fee of \$1.00. They were never able to enlist all their numbers in such organizations. The secret orders were in fact a dual organization—political and military. The one was within the other. The political organization had for its object the political success of the Peace Democracy. In so far the societies were merely Democratic clubs, playing with the rituals and passwords of secret societies. But within the associations was usually a military organization composed of the more radical and violent elements that looked forward to the use of force. By 1863 the societies had been welded into a fairly homogeneous body. There was a Supreme Council of the Order, composed of the Grand Commanders of the States and two delegates from each of the States in which the order existed. The Supreme Council chose the executive officers—the Supreme Commander, a Deputy Supreme Commander, Secretary of State and Treasurer—at an annual meeting on February 22nd. Valandigham became Supreme Commander in February, 1864. Robert Holloway of Illinois was the Deputy Commander, and Doctor Massey of Columbus, a son-in-law of Samuel Medary of Crisis fame, was Secretary of State. The Supreme Commander was the military as well as the political chief. Each state where the order could gain a footing was organized in turn into a Grand Council of two representatives from each County Temple and one additional representative for each thousand members in the county. The Grand

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pretending to expose the orders, and pamphlets and books with the same purpose. All the evidence whether that of alarmists, witnesses or Government detectives must be sifted most carefully. The best contemporary account of the secret societies in the Northwest is the report of the Judge Advocate General, Joseph Holt, to the Secretary of the War on the Secret Associations and Conspiracies against the Government, 1864. The report of the Adjutant General of Indiana for the Civil War, Vol. I, contains much material. Mayo Fessler, "*Secret Political Societies in the North during the War*", *Indiana Magazine of History*, Sept. 1918, and W. D. Foulke, *Life of Oliver P. Morton*, Vol. I, chs. 27 and 28, are critical accounts of the movement.

Council chose the state executive officers. There were for the state a Grand Commander, a Deputy Grand Commander, a Grand Secretary, and a Grand Treasurer; for each military district a Major General. County or Parent Temples and township lodges carried the organization down to the rank and file. An assembly of delegates from the township lodges formed a parent Temple. The township lodges were the ultimate glory of the Order. The oaths, invocations and charges, signs, signals, and passwords, solemnly recited by the galaxy of mysterious officers must have held the faithful masses entranced. The secrecy which the ritual enjoined satisfied an universal human foible; the "shameful death" and consignment to infamy "while this sublime order shall survive the wrecks of time, and even until the last faithful brother shall have passed from earth to his service in the Temple not made with hands," pronounced in solemn accents, for those who violated the vows of the order, undoubtedly served a purpose in overawing the rustics whom curiosity, or adventure, or doctrines of government, or contemplated treason brought together. The rituals abounded in platitudes of history and religion effective in satisfying an incipient idealism. Meetings for the initiates were held in the woods or in half-lighted barns in out-of-the-way places at night, added to the solemnity of the occasion. But the military organization of the order was, contemporary observers said, the most significant feature and the secret of its strength. A military hierarchy was formed from the Supreme Commander's staff down through those of the Grand Commanders, the District Major Generals, the Brigadier General of the subordinate subdivisions of the districts, the Colonel of the county regiment, and the Captain of the township company.

The order recruited in its membership white men of 18 years of age and upward. It succeeded in establishing Grand Councils in nine or ten of the northern states and scattered temples here and there in the

others. The main strength of the organization was naturally wherever the Peace Democrats abounded. The chief "temples" were at Cincinnati, Dayton and Hamilton in Ohio, Indianapolis and Vincennes in Indiana, at Chicago, Springfield, and Quincy in Illinois, at St. Louis in Missouri, Louisville in Kentucky, and Detroit in Michigan.<sup>39</sup> In some counties in Indiana practically all Democrats were enrolled.<sup>40</sup> Contemporary estimates of the membership, whether by the Government agents or by the officials of the order, are undoubtedly exaggerated. The motives of the individual made him see numbers in large. Some placed the number near a million. Vallandigham claimed an active membership in 1864 of half a million. Joseph Holt, Judge Advocate General of the United States, accepted Vallandigham's claim as near the truth, and added the opinion that 340,000 of them were ready for military service. On the other hand, Thompson, the Confederate Commissioner in Canada placed the number at 170,000 for Ohio, Indiana, and Illinois. The total in the Northwest would in that case not exceed 225,000. As a matter of fact the local organization was so loose and the membership so shifting and inconstant that contemporary estimates were little more than guesses. A half a million there certainly was not. The total vote for McClellan in Ohio, Indiana, Illinois, Missouri, and Kentucky was just over 500,000 in 1864; that vote was the combined strength of the greater part of the War Democrats and all the Peace Democrats. It is inconceivable that anything like the whole of the Peace Democrats were enrolled in the secret political societies; much less a number equal to the combination of the two factions of the Democratic Party. The Adjutant General of Ohio reported from the information which the state authorities gathered with some care that

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<sup>39</sup> *Report of Advocate General, Joseph Holt*, p. 5.

<sup>40</sup> *The Report of the Adjutant General of Indiana*, Vol. I, p. 303, says this was true of Brown, Huntington, Jackson, Marshall, Orange, Putnam, and Washington counties.

there were from 80,000 to 108,000 in Ohio.<sup>41</sup> The lower number (80,000) represents a little over 40 per cent of Vallandigham's vote for Governor in 1863, or less than one fifth of the voters in the state. The estimate is not unreasonable, but the evidence in its support is not convincing. If one accepts the figure for Ohio, and adds to it similar conservative estimates for the other states where the secret organization existed the result would give a membership of 325,000 in 1864 when the movement was at its height. It is doubtful whether one will ever be able to make a statement more precise than this that there were two or three hundred thousand men in the Northwest banded together in a secret political and military organization hostile to the Federal Government. How far the body was armed and drilled is a matter about which the evidence is even less trustworthy than the estimates of numbers.<sup>42</sup>

The oaths, rituals, and declarations of principles of the secret societies laid stress on unswerving obedience of the members to the leaders and on the political doctrines of the Peace Democrats. And then they pushed the teachings of the more radical elements of Peace Democracy into fields that party resolutions, platforms, and speeches, being public, dared not touch. The right and duty of resort to force against the Government was freely taught. The old Democracy of Jefferson and Calhoun had set up the States as the final authority in the place the Supreme Court came to occupy when the powers of the Federal Government were in question. Vallandigham's movement in effect set up the assemblies of the Sons of Liberty as the court of final appeal. The ritual of the order spread the doctrine that "whenever the officials, to whom the people

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<sup>41</sup> *Report of the Adjutant General of Ohio, 1864*, p. 37.

<sup>42</sup> Holt, Advocate General, p. 5; *Official Records*, (Series II), Vol. VII, pp. 228, 630, 801; (Series III), Vol. 4, p. 579; Thompson in *Southern Bivouac*, Vol. II, p. 509, Rhodes, *History of the United States*, Vol. V, p. 318, seems to place the number near 200,000; Fessler, *Indiana Magazine of History*, 1918, p. 230 reaches the conclusion that the number was much less than these figures; he seems to doubt that it ever exceeded 100,000.

have intrusted the powers of the government, shall refuse to administer it in strict accordance with its constitution, and shall assume and exercise power and authority not delegated, it is the inherent right and imperative duty of the people, to resist such officials, and, if need be, expel them by force of arms. Such resistance is not revolution, but is solely the assertion of right". Those who "exercise power not delegated . . . should be regarded and dealt with as usurpers".<sup>43</sup> And the Peace Democrats planned to appeal to force to overthrow the Administration when the ballot appeal ran against them.

Both the Peace Democrats and the Secret Orders had a perfectly definite program. It could not have been otherwise. Their leadership was generally identical. They were bent on the overthrow of Abraham Lincoln as a menace to the theory of government which they had set up. To do this it was necessary to defeat the Union armies in the field. The defeat of Union candidates at the polls would follow. The defeat of the armies was essayed by a propaganda to undermine the morale of the soldiers, to discourage enlistment, to encourage desertion and protect the deserters. This was the program from the first days of the Civil War. Each successive War measure of Congress lashed the Copperheads to a greater fury. The Confiscation Act of August, 1861, the abolition of slavery in the territories, 1862, and the draft act and Habeas Corpus act of March 3, 1863, were especially condemned as acts of tyranny. President Lincoln's Emancipation Proclamation, January 1, 1863, accepted the issue with the Peace Democrats which they had expected from the beginning, and changed the meaning of the War. The step rallied the anti-slavery forces

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<sup>43</sup> *Indiana Treason Trials*, p. 297. *Report of the Union Congressional Committee* under the title "*Copperhead Conspiracy in the Northwest*", p. 3. *Report of the Special Committee of the House of Representatives of Kentucky on the Case of Joshua F. Bullitt*, Feb. 27, 1865, p. 18ff. *Report of Joseph Holt, Judge Advocate General*, p. 8 ff. *Official Records*, (series II), Vol. VII, p. 289. *Ibid.*, (Series III), Vol. VIII, pp. 68-9. *Southern Bivouac*, (New Series), Vol. II, p. 504.

in the nation around a moral issue. It did more. It won the sympathy of foreign people, particularly the British, and silenced all serious thought of foreign intervention. These were distinct assets for the Administration. But there were liabilities as well. The Emancipation Proclamation gave the Peace Democrats an opportunity to stand forth as true prophets. The War was after all what they had said it was—an Abolition War.

“What has caused all our discontent,  
Our Union asunder rent,  
And is on our destruction bent?  
Abolition.”

“Honest old Abe, when the war first began,  
Denied abolition was part of his plan;  
Honest old Abe has since made a decree,  
The war must go on till the slaves are all free.  
As both can't be honest, will some one tell how,  
If honest Abe then, he is honest Abe now.”

In equally cheap doggerel they appealed to the latent race prejudices of the North. To the air of “John Anderson, My Jo John” their followers were urged to sing:

“Old Abraham, my jolly Abe,  
When we were first acquaint,  
I thought you were an honest man,  
But nothing of a saint;  
But since you wore the Spanish cloak,  
You love the negro so,  
And hate the white man, so you do,  
My jolly Abe, my Jo.”<sup>44</sup>

The army was the most vulnerable point in the Administrative agencies in the conduct of the war.

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<sup>44</sup> *A Choice Collection of Democratic Poems and Songs*, pp. 46, 47, 59.



The adjutant general of Indiana reported in January, 1863, that the number of arrests for desertion in the Indianapolis district alone in the month of December had exceeded 2500; that officers sent to arrest men accused of desertion were set on by the local population. After the inauguration of the draft system in the spring of 1863, the Peace Democrats and secret orders centered their activities on its defeat. Local resorts to force became quite common in 1863. A small uprising in Holmes County, Ohio, was quickly put down. The officers who dispersed the would be insurgents saw about fifty, "an ignorant and misguided class who hardly knew what they wanted or why they felt themselves aggrieved."<sup>45</sup> The draft records in Blackford County, Indiana, were destroyed by a mob. Several draft officers in Indiana and Illinois were set on by mobs; in a few cases the officers were murdered. It became necessary in the Copperhead strongholds to accompany United States officials with armed guards. The authorities that attempted to arrest deserters were attacked by mobs. Disloyal judges supplemented the work of the mobs by discharging the deserters and those who encouraged desertion when brought before them.

It is difficult to take the measure of the acts of violence at this stage. Jefferson Davis thought the Ohio Valley in 1863 the weak place in the enemy's territory. It was his mature judgment that the death of General A. S. Johnston in 1862 was a fatal event for the Confederacy. That with a skillful commander like him "Tennessee, Kentucky and Missouri would have been recovered, the Northwest disaffected, and our armies filled with the men of the Southwest, and perhaps of the Northwest also."<sup>46</sup> The Copperheads boasted that the Northwest was in a state of insurrection. Such a statement was a gross exaggeration, if applied to the whole, not so for certain narrow districts.

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<sup>45</sup> *Official Records*, (Series I), Vol. 23, Part I p. 396.

<sup>46</sup> Jefferson Davis, *Rise and Fall of the Confederate Government*, Vol. II, p. 61.

But to discourage and intimidate the Unionists was a part of the propaganda of the Peace Democrats. The evidence of growing disorder in the Northwest alarmed the Unionists. The State authorities attempted to meet the situation by the organization of new militia units for local defense.<sup>47</sup>

The failure of the federal campaign in Virginia in 1862, and the success of the Peace Democrats at the polls in the Northwest in the Fall of 1862, the discouragement of the Unionists and the elation of the Copperheads, produced a dangerous situation. The Governors of Ohio, Indiana, and Illinois had their hands full, to say the least. The opposition to the War in Indiana blocked every measure in the legislature in 1863 for the support of the War, and even prevented the passage of the usual appropriations for the support of the State government. In Illinois at the same time the lower house of the legislature voiced by resolutions the demand of the Peace Democrats for an armistice and a peace convention.<sup>48</sup> It is easy after the event to see that the Copperheads had shot their bolt as a political power in the winter of 1862-3; that those who were fighting in the thick of the battle felt doubts and fears of the outcome was inevitable. The correspondence of the Administration from the Northwest described with one accord a dangerous situation.<sup>49</sup> That President Lincoln shared the alarm is supported by direct testimony and by the growing severity of the repressive measures. "The President tells me", Senator Sumner wrote to his friend Francis Lieber, "that he now fears the fire in the rear—meaning the Democracy, especially at the Northwest—more than our

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<sup>47</sup> Ohio had a force of 40,000 in militia organizations in 1864, and Indiana nearly if not quite as large a body, See *Annual Report of the Adjutant General of Ohio*, 1864, p. 39, and *Operations of the Indiana Legion and Minute Men*, 1863-4, Indianapolis, 1865.

<sup>48</sup> Rhodes, *History of the United States*, Vol. IV, p. 223.

<sup>49</sup> *Official Records*, (Series II), Vol. VII contains a large mass of reports of agents of the Administration.

military chances." The Senator adds the comment—"These are dark hours. There are senators full of despair,—not I".<sup>50</sup> This much is certain. By the opening of 1863 the Peace Democrats had captured the entire Democratic organization of the Northwest, and were using it to advance their movement. They had a large part of the membership under instruction in secret societies. And a part of this membership was marshalled in military companies, arming and drilling after a fashion.

### THE EXILE OF VALLANDIGHAM

In March, 1863, the President transferred General Ambrose E. Burnside from the command of the Army of the Potomac to that of the Department of the Ohio which comprehended the region of Copperhead strength. Burnside undertook the command in the Northwest at almost precisely the moment that Vallandigham returned to Ohio, his Congressional term at an end. A clash was probably inevitable under the circumstances. Burnside had been humiliated by his terrible defeat at Fredericksburg, and was now determined to retrieve his lost fortunes by success in the western field. Vallandigham had just closed his congressional career with considerable eclat. His speeches toward the close of the session, particularly that of January 14, had been confident, daring, and forceful.<sup>51</sup> He had every reason to believe that his opposition was bearing fruit. A peace through the victory of Union arms seemed very remote, as he wished it to be. The Peace Democrats and such War Democrats as clung to the old organization had together nearly swept the Unionists from power in the Fall elections. Vallandigham's own defeat had been accomplished by the gerrymander. His

<sup>50</sup> *Letter of January 17, 1863.* See E. L. Pierce *Memoirs and Letters of Charles Sumner*, Vol. IV, p. 114.

<sup>51</sup> *The Speech of January 14, 1863*, is an exceedingly strong statement of Vallandigham's policy. *Congressional Globe*, Part II, 1862-3, Appendix, p. 52ff.

return to Dayton meant to him the transfer of his field of activities in a winning political contest with the Administration to a more congenial environment than Washington.

General Burnside met the Peace Democrats with an order for the arrest of those committing certain offenses. "The habit of declaring sympathies for the enemy," he added at the end of the list, "will not be allowed in the department. Persons committing such offenses will be at once arrested, with a view to being tried as above stated (that is, as spies and traitors,) or sent beyond our lines into the lines of their friends."<sup>12</sup> Vallandigham took the order as a challenge. At Mt. Vernon, May 1, 1863, he delivered two addresses, two of them to overflow audiences. Plain clothes representatives from the military authorities were present to report Vallandigham's words. He described the War as "wicked and cruel," "not being waged for the preservation of the Union," but "for the purpose of crushing out liberty and erecting a despotism," as "a war for the freedom of the blacks and the enslavement of the whites," needlessly continued. The people were urged to inform "the minions of usurped power that they will not submit to such restrictions on their liberties" as prescribed in Burnside's order, which was described as "a base usurpation of arbitrary authority. Vallandigham charged that attempts were now being made "to build up a monarchy upon the ruins of our free government".<sup>13</sup>

Burnside did not hesitate in adopting a course of action. On the morning of May 5, 1863, military authorities arrested Vallandigham at his home in Dayton. A military commission was assembled in Cincinnati the following day, and ten days later found him guilty of publicly expressing sympathy for the rebellion and declaring disloyal sentiments and opinions with the

<sup>12</sup> General Order No. 38, McPherson, *History of the Rebellion*, p. 162; *Report of Trial of Vallandigham*, p. 11.

<sup>13</sup> *The Trial of Vallandigham*, Cincinnati, 1863; Vallandigham, *Life of Clement L. Vallandigham*, ch. 12.

object of weakening the power of the Government in its efforts to suppress the rebellion. The conclusion that he had explicitly expressed sympathy for the rebellion was not supported by the evidence; in fact, it is certain he had no real sympathy with the rebellion. The conclusion was however, a natural one under the circumstances, and perhaps not unjust. That Vallandigham was trying to weaken the Government at a critical time, and so was a dangerous citizen, skating on the thin ice of near-treason, will probably be denied by few today. The commission proposed close confinement in some fortress for the duration of the War. General Burnside approved the decision of the military court, and proposed confinement at Fort Warren, in Boston Harbor. The federal district court of southern Ohio refused to interfere when asked for a writ of habeas corpus, and expressed approval of the course which the military authorities had pursued.<sup>54</sup>

There is direct testimony that the arrest and trial of Vallandigham for the particular offense of May 1, was the act of Burnside and not of his superiors. Burnside after the Civil War explained the case and virtually assumed responsibility. His statement was a defense; "Soon after I took command, I became very anxious in the contemplation of the great discontent and despondency on the part of many persons occasioned by the disloyal politicians, who at that time were doing so much harm in the Northwest. Letters were being sent into the army for the purpose of creating discontent among the soldiers, newspapers were full of treasonable expression, and large public meetings were held, at which our Government authorities and our gallant soldiers in the field were openly and loudly denounced for their efforts to suppress the rebellion. Our military prisons were full of persons arrested for uttering disloyal sentiments and committing disloyal acts."<sup>55</sup> The

<sup>54</sup> *Report of the Trial of Vallandigham*, pp. 259, 272, full opinion of the court.

<sup>55</sup> *Official Records*, (Series I), Vol. 23, Part 1, p. 12. Report of November 13, 1865, as commander of the Department of Ohio.

diary of Gideon Welles comments on the Cabinet conferences on the case and confirms the view that the act was Burnside's own.<sup>56</sup> Vallandigham's arrest was but one of a series at the time. Among others Logan, the editor of the Dayton Empire, was arrested and confined in prison.<sup>57</sup> They were probably intended as acts of warning to the Peace Democrats. Whether they accomplished the purpose is a matter the historical student finds it difficult to settle. Such acts heartened the loyal and stimulated the resistance of the opposition. The balance remains in doubt. That Burnside's policy had pushed the field of military authority farther into the normal ones of civil agencies than the President had yet done or intended is clear. Most of those arrested at this time were soon released. Burnside's order suspending the publication of the Chicago Times, June 1, 1863, was revoked by President Lincoln's order three days later.<sup>58</sup> A few weeks after the arrest of Vallandigham General Burnside consulted the Secretary of War in advance on a plan he had formed of arresting Judge Trimble of Kentucky for public statements against the War. Stanton's reply may be taken as an expression of deliberate policy of the Administration at the time. "If Mr. Trimble is found encouraging desertion from your army", Stanton said, "or in any way interfering with or endangering your military operations you will be authorized to place him under arrest; the mere declaration of his opposition to the War or that if elected he will oppose furnishing supplies of any kind is a good reason why loyal men should not vote for him but is not sufficient ground for military arrest."<sup>59</sup> Stanton's rule required a direct word encouraging desertion; Burnside's military court accepted an expression which indirectly tended to the same

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<sup>56</sup> *Diary of Welles*, Vol. I, pp. 306, 321-3.

<sup>57</sup> *Official Records*, (Series II), Vol. V, p. 566.

<sup>58</sup> *Official Records*, (Series I) Vol. 23, Part 1, pp. 381-6.

<sup>59</sup> *Official Records*, (Series II) Vol. VI, p. 23.

end as sufficient. The distinction is rather a fine one, but real, none the less.

At any rate, in the case of Vallandigham, the President decided to support the policy of Burnside, except that the alternative punishment which had been suggested in Burnside's order was substituted for the sentence of the military court. The President's commutation of the sentence of Vallandigham instructed the military authorities to send him into exile in the Confederate States, subject to the revival of the original sentence of close confinement if he returned within the Union lines. Vallandigham was sent from Cincinnati to the outposts of the Union line, and thence under a flag of truce handed over to the Confederate pickets near Shelbyville, Tennessee. It was President Lincoln's purpose to identify Vallandigham in the mind of the northern people with treason and the Confederate cause, and so discredit his movement. What happened can best be told by the following reprints of manuscripts from the Bragg papers in Mr. W. P. Palmer's Civil War Collection at the Western Reserve Historical Society.

General Bragg in command of the Confederate army in middle Tennessee reported the arrival of Vallandigham to the Adjutant General of the Confederacy at Richmond, supplied him with a passport, and an explanatory letter.

Hd. Qrs - Dept. No.2 -

Shelbyville 27" May 1863.

Sir

On the 25" inst. the Hon..C. L. Vallandigham of Ohio U. S. was brought by an armed guard of the enemy, to the neutral ground between our pickets, on the road from Murfreesboro to this place; and was there abandoned by them—I have admitted him within my lines, and received him with the courtesy due any unfortunate exile seeking a refuge from tyranny—He desires to go to the state of Georgia, and I have granted him permission for that purpose.

Should the government desire any other policy in similar cases, I shall be pleased to receive instructions,

I am Sir

Very Respy

Yr obt. Servt

Adj<sup>t</sup> Genl

(Sgd) Braxton Bragg

C.S.Army

Genl Comr

Richmond

Va.

Mr. Vallandigham, the bearer, a citizen of the State of Ohio, is permitted to pass as any Citizen of the Confederacy within the limits of this department.

Shelbyville, Tenn,

Sgd Braxton Bragg

26th May, 1863

Genl.

Headquarters Dept. No.2.

Shelbyville, Tenn.

26 May, 1863.

Hon. C. L. Vallandigham.

of Ohio. Shelbyville.

Sir,

I enclose you the passport desired, and congratulate you upon your arrival in our land of liberty, where you will find the freedom of speech and of conscience secured to all. Your sojourn amongst us, as a private citizen, exiled by a foreign government, with which we are at war, will of course impose some restraint upon you, which our people will fully appreciate

But I am satisfied you will ever receive the courtesy due your unfortunate position, and the respect of all who learn the quiet and retired position you have determined to occupy -

I am, Sir,

Very Respectfully

Yr. Obt. Svt.

Braxton Bragg

Genl C.S.A.



The Confederate authorities thought too highly of Vallandigham's services as a leader of forces in the Northwest which were weakening the Union cause to allow them to be neutralized in the way Lincoln intended that they should be. The southern newspapers had followed Vallandigham's agitation carefully and sympathetically. His speeches were printed in full. The point of view of the newspapers of the Southwest were particularly warm in admiration for Vallandigham.<sup>60</sup> The newspapers exhibited an anxiety to see him in a place where he could continue to foster the illusion of the hour. The South had looked to foreign mediation or intervention in 1861 and 1862. Vallandigham's peace party aroused a new hope of an easier road to independence than by a military victory, or at least, a way to make a military victory possible. They advocated sending Vallandigham on his way.<sup>61</sup> The scheme was a logical one. It was Vallandigham's own. The Confederate authorities were equally anxious with the exile that his passage to neutral territory be expedited.

High reasons of state guided the Confederate Administration. It was worth while to encourage dissension at the North and to checkmate Lincoln. Vallandigham might be of service to them; they had no interest in his plan for peace and reunion. Moreover the Confederate authorities were constantly warned by newspaper writers against embarrassing alliance with this particular Peace Party. The Confederate Republic was to be a homogeneous state, so far as its labor system was concerned; free states were not to be courted too far.<sup>62</sup>

VALLANDIGHAM tarried a week in Shelbyville behind the Confederate lines, an honorary enemy alien, so to

<sup>60</sup> See for example, *Augusta Constitutionalist*, Jan. 7, Feb. 14, Feb. 27, 1863; *Knoxville Daily Register*, May 28, June 7, June 13, July 31, 1863; *Athens (Tenn.) Post*, May 29, 1863.

<sup>61</sup> See *Augusta Constitutionalist*, May 31, 1863; *Knoxville Daily Register*, May 28, 1863.

<sup>62</sup> See for example, *Knoxville Daily Register*, May 28, June 7, 1863; *Augusta Daily Constitutionalist*, May 31, 1863.

speaking, while the Confederate authorities conferred on his case. The conclusion was to treat him as a citizen of the United States on parole, secure what information they could from him, and then send him on his way to a neutral country. The following selections from the Bragg Papers tell the story of the decision.

Head Quarters Dep<sup>t</sup> No.2.

Shelbyville, Tenn May 31<sup>st</sup> 1863

Hon C. L. Vallandigham

Dear Sir

The General Commanding instructs me to enclose you a copy of a dispatch just received from Hon. I. A. Seddon Secretary of War, Richmond, and to request you to give a response in writing in order that he may answer the inquiry contained in the dispatch. The General desires also that you will return the passport given you as pending further instructions from Richmond it is evident that its issue is in conflict with the views which have prompted the dispatch.

(Braxton Bragg Genl)

Shelbyville, Tenn.

May 31, 1863

Gen. Bragg,

C. S. A.

Com<sup>dng</sup> &c, &c,

Sir:

In answer to your note of this morning, allow me to say that it was my offer upon first entering your lines, to surrender myself a prisoner; & the order or suggestion of the Secretary of War, is entirely consonant to my original desire & purposes, though I sincerely trust that the parole may allow my departure at any time, as this is most important to me every way.

Please report also, that I came to your lines upon compulsion & against my consent, as a citizen of Ohio & of the United States, in exile banished from my country for no other offense than love of constitutional liberty, my political opinions, & resolute, undaunted

opposition to the principles & policy of the party & Administration in power in the United States. The order of the President was absolute, forbidding me to return under penalty of imprisonment during the war; & therefore left me no alternative; & it was executed by military force. It is better for me doubtless for several reasons, to be deemed a prisoner on parole while I remain in the Confederate States; but my most earnest desire is for a passport, if necessary, and permission to leave as soon as possible, either through some Confederate port, or by way of Matamoras, for Canada, where I can see my family, communicate with my friends & transact my business as far as practicable, unmolested. I am still a citizen of Ohio & of the United States, recognizing my allegiance to both, and retaining the same opinions & position which I have always held at home. As the President of the United States will certainly not *exchange* me, I trust I may be allowed to depart on parole for the place which I have above designated.

Very Respectfully &c

C. L. Vallandigham

Shelbyville 1<sup>st</sup> June 1863.

General S. Cooper

Adjutant General Richmond.

Honorable C. L. Vallandigham is here on Parole. He was brought under Guard by the Enemy and Abandoned in Front of my lines—With orders from his Government Not to Return Under Penalty of Imprisonment for the War Fearing assassination from a licensed soldiery he made his Way to My Outpost & Surrendered as an alien Enemy owing allegiance to the State of Ohio and the United States But Exiled by the present Government for Maintaining his Civil Rights as a freeman.

He Awaits orders but desires to make his Way by the most Expeditious Route to Canada. I suggest a

Conference with him personally or by a Confidential Agent.

Braxton Bragg

Despatch

to

Genl S. Cooper

Ans<sup>rd</sup> 1<sup>st</sup> June

South-Western Telegraph Company.

Shelbyville, June 2nd, 1863.

By Telegraph from Richmond 2d, 1863.

To Genl. B. Bragg

Your dispatch to Adj<sup>ut</sup> Gen'l rec<sup>d</sup> Send Hon C. L. Vallandigham as an alien enemy under guard of an officer to Wilmington where further orders await him  
Jeffn Davis

(27 pd.)

(Penciled note in handwriting of General Bragg on bottom of telegram as follows:

Upon Mr. Vallandigham's earnest request he was permitted to go this morning to Lynchburg to Confer with a distinguished friend of Virginia. He reports from there on parole to the war department.)

The decision of the Confederate authorities harmonized perfectly with the wish of the exile. He was ordered to report under parole at Wilmington, North Carolina. He journeyed by railroad through Chattanooga, Knoxville, Bristol, Lynchburg, and Petersburg to Wilmington. The Confederate Commissioner of prisoners joined him at Lynchburg.<sup>63</sup> What conferences Vallandigham held with Confederate authorities at the various stations en route are matters of speculation. A journey of a fortnight duration gave abundant time for them. John Jones, a clerk in the War Department at Richmond has left the record that he saw the memorandum of Mr. Ould, the commissioner of

<sup>63</sup> There are some details in the "*Biographical Memoirs*" by Vallandigham's brother, published in New York, 1864, which do not occur in the *Life of Clement L. Vallandigham* by the same author, J. L. Vallandigham, Baltimore, 1872.

prisoners, of a conversation held with Vallandigham for file in the archives. Vallandigham was quoted as assuring the Confederates that if they could hold out for this year "the peace party of the North would sweep the Lincoln dynasty out of political existence". "He seems", the clerk continues, "to have thought our cause was sinking, and feared we would submit, which would of course, be ruinous to his party. . . Mr. Vallandigham is for restoring the Union amicably, of course, and if it cannot be so done, then possibly he is in favor of recognizing our independence. He says any reconstruction which is not voluntary on our part would soon be followed by another separation, and a worse war than the present one." " "

On the night of June 17 a blockade runner carried Vallandigham safely through the blockading squadron. His brother tells how the vessel avoided an unpleasant search with the certainty of captivity for crew and passengers by an American man-of-war. On sighting the war ship the fleeing ship put on a bold front, dressed up a body of men in British uniforms, and paraded them on deck. The ruse succeeded. The man-of-war saw the brilliant scarlet uniform of the British army, and took the vessel for a British transport bound for the West Indies. " " Vallandigham sojourned a few days in Bermuda, and took ship for Halifax where he landed July 5. Ten days later a special train bore him with some signs of triumph to the Clifton House at Niagara on the Canadian side. Here he seems to have engaged quarters while still a prisoner in Cincinnati. " "

In the meantime the Democratic party of Ohio had held its State Convention, June 11, adopted a Peace platform, and nominated the exile as its candidate for Governor. Vallandigham took up his campaign from his quarters at Niagara Falls, little hindered

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" " John Jones, *A Rebel War Clerk's Diary*, Vol. I, p. 357.

" " Vallandigham, *Life of Clement L. Vallandigham*, pp. 314-5.

" " *Official Records*, (Series II,) Vol. VII, p. 725.

by the international boundary which separated him from his followers. His manifesto for the Ohio Democracy, sent forth on the day of his arrival at the border, accepted the nomination and skillfully described his exile. "Arrested and confined", he said, "for three weeks in the United States, a prisoner of state; banished thence to the Confederate States, and there held as an alien enemy and prisoner of war, though on parole, fairly and honorably dealt with and given leave to depart,—an act possible only by running the blockade at the hazard of being fired on by ships flying the flag of my own country,—I find myself first a freeman when on British soil. And today, under protection of the British flag, I am here to enjoy and in part to exercise, the privileges and rights which usurpers insolently deny me at home". His party program was outlined. The people were told that he had not found "in all the Confederate States one who did not declare his readiness, when the war shall have ceased and invading armies been withdrawn, to consider and discuss the question of reunion. And who shall doubt the issue of the argument? I return therefore, with my opinions and convictions as to war and peace, and my faith as to final results from sound policy and wise statesmanship, not only unchanged, but confirmed and strengthened. And may God of heaven and earth so rule the hearts and minds of Americans everywhere that a Constitution maintained, a Union restored, a liberty henceforth made secure, a grander and nobler destiny shall yet be ours than that even which blessed our fathers in the first two ages of the Republic".<sup>67</sup> The address makes amazing reading a generation after the writing, amazing for its egotism and for its misinterpretation, or, let us say, misconception of the purposes and ideals of the Government of the United States. An extensive population accepted it as almost a new gospel. The popularity of Vallandigham with his followers, if the con-

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<sup>67</sup> Vallandigham, *Life of Clement L. Vallandigham*, pp.318, 321.

temporary news reporters and editors had any truth in them, is a significant phenomenon. <sup>68</sup>

In August, Vallandigham moved his headquarters to Windsor, opposite Detroit, because it was more accessible to the strongholds of his party in the Northwest. From all appearances he had successfully defeated the purposes of the Government in exiling him, and become a champion of free speech. The campaign of the Peace Democrats during the summer, and the course pursued by certain judges in defeating the draft law by discharging drafted men under habeas corpus proceedings worried President Lincoln. <sup>69</sup> Vallandigham was safely beyond reach. His political campaign must be left with the voters of Ohio. But the use of the writ of habeas corpus to defeat a law was another matter. President Lincoln called a Cabinet meeting on September 14 for the discussion of ways of combatting the interference of the courts. The President was according to the testimony of Cabinet members aroused to the seriousness of the situation. Gideon Welles, the Secretary of the Navy, reported that the operations of the navy were also embarrassed by the same abuses of disloyal courts, and that the practice might easily become a national disaster. The evidence of the provost-marshal on the means employed to defeat the draft convinced all members of the Cabinet with a cordial unanimity, says Welles, that a new policy should be adopted by the Administration.

From time to time President Lincoln had suspended the writ of habeas corpus as though the suspension were an executive prerogative. The Democratic opposition, and particularly the Peace Democrats, had laid emphasis on the letter of the constitution, and

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<sup>68</sup> A book of songs to chant the praises of Vallandigham in fashion to please his followers was compiled in Columbus in 1863. *The Vallandigham Song Book*, Columbus, 1863.

<sup>69</sup> Gideon Welles, *Diary*, Vol. I, p. 432-5; Warden, *Account of the Private Life and Public Services of Salmon P. Chase*, pp. 543-5.

bitterly criticised his policy.<sup>70</sup> Lincoln's reply to his critics stated an important fact of the situation: that the enemy under the cover of liberty of speech, liberty of the press, and habeas corpus "hoped to keep on foot amongst us a most efficient corps of spies, informers, supplies, and aiders and abettors of their cause in a thousand ways. They knew that in times such as they were inaugurating by the Constitution itself the habeas corpus might be suspended, but they also knew that they had friends who would make a question as to who was to suspend it, meanwhile their spies and others might remain at large to help their cause".<sup>71</sup> In its earlier form the issue was whether the President could at his own discretion under the constitution suspend the writ of habeas corpus in sections where the civil courts were still open. President Lincoln was convinced that the power was committed to himself as one of the "exceptions to the constitution", though within his official family there were some dissenters. Secretary Chase, the chief of these doubters finally came to the President's conclusion.<sup>72</sup>

The act of Congress, March 3, 1863, gave the President the power to suspend the writ whenever in his judgement the public safety required. The President and his advisors concluded on September 15, 1863, that the interference with the enforcement of the draft law warranted the exercise of the powers committed to the Executive by Congress. A proclamation of the President suspended the writ for the duration of the War in all cases throughout the United States where persons were held by the military authorities

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<sup>70</sup> See especially the protests of the New York and the Ohio Democrats after the arrest and trial of Vallandigham. New York protest, May 16 and 19, 1863. *Official Records*, (Series II,) Vol. V, p. 654; *Ohio Protest*, *Official Records*, (Series II,) Vol. VI, pp. 48-53.

<sup>71</sup> *Official Records*, (Series II,) p. 4, *Reply to New York Democrats*; See pp. 56-9, *Reply to Ohio Democrats*.

<sup>72</sup> Lincoln's *Reply to New York Democrats*, *Official Records*, (Series II,) Vol. VI, p. 5; Warden, *Life of Salmon P. Chase*, p. 545; Welles, *Diary*, p. 432.



as "spies, or aiders or abettors of the enemy".<sup>73</sup> The proclamation put an end to the issue as to the powers of the Presidency; but a new one took its place: had the Congress power to authorize the suspension when the civil courts were open? It was an annoying issue for the Administration. The Confederate States had adopted conscription in 1862, and conferred on the Executive the power to suspend the writ of habeas corpus in cases of interference with conscription as well as other enumerated offenses. For more than a year President Davis had been suspending the writ in large sections of the South.<sup>74</sup> Were the enemy to have full power to enforce universal service in time of war, and the Executive of the United States find his hands tied by a difference of interpretation of a clause of the constitution with a minority party out of sympathy with the War? Or as Lincoln said on a similar occasion: "Are all the laws but one to go on unexecuted and the Government itself go to pieces lest that one be violated?"<sup>75</sup>

How far the extraordinary conditions of war times ever make necessary the interference with freedom of speech and action is one of the problems of democracies as well as autocracies. The interference does not in itself transform the authorities into an autocracy as so many assume so long as its conduct is that of the responsible agent of the majority of the people in free elections; and so long as the interference is done in a constitutional manner. No one has in recent years challenged the motives and spirit of President Lincoln's use of extra legal powers. But his policy during the

<sup>73</sup> Nicolay and Hay, *Complete Works of Abraham Lincoln*, Vol. IX, p. 121.

<sup>74</sup> Moore, *Rebellion Records*, Vol. X, p. 227; *Daily Richmond Whig*, March 22, 1862; October 11, 1862, Feb. 19, 1864. The act of the Confederate Government for the suspension of the writ was not so sweeping as that of the United States; nor its use so extensive; it was severely criticised at the South; and was abandoned in August, 1864; but these facts from the History of a community fighting in large measures for States' Rights may well have given those in the North who were opposing the Administration food for thought.

<sup>75</sup> Nicolay and Hay, *Abraham Lincoln, Complete Works*, Vol. VI, p. 309.

early years of the civil War of suspending the writ in emergencies and his later policy of suspending the writ under an act of Congress throughout large sections of the country have both been condemned.<sup>76</sup> The Supreme Court by a vote of five to four in 1866 pronounced judgment against the policy of President Lincoln during the Civil War.<sup>77</sup> The constitution provides explicitly that "the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public safety may require it". The Congress and President interpreted the clause freely, with the effect of strengthening the central government; the Supreme Court after the crisis was passed read into the clause a strict construction. It is a fact of some significance that the five justices who pronounced against the suspension of the writ in regions where the civil courts were still open or, in other words, gave the clause a narrow construction were all Democrats; while three of the four who favored a liberal construction were Republicans. A decision so distinctly on party lines cannot be said to have settled the constitutional issue. May it not be said that the policy of the President with regard to the use of the writ of habeas corpus was, so to speak, playing safe in meeting the large responsibilities which were his? To a statesman who had watched one State after another sweep away Federal Government, root and branch, and set up a new nation, while President Buchanan sat helplessly by, his hands tied by strict construction doctrines; to one who, later, had with difficulty managed in 1861 by the use of martial law and arbitrary arrests to stop the spread of the rebellion in Maryland and the isolation of the national capitol, the news from the Northwest in the summer of 1863 was naturally more then disquieting.

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<sup>76</sup> See Mr. Rhodes' discussion, *History of the United States*, Vol. IV, p.229; Willoughby, *Constitutional Law*, par. 733.

<sup>77</sup> 4 Wallace 3 *ex parte* Milligan, Dec. 1866.

THE alternative policy which President Wilson adopted in 1918—that of strengthening the powers of the Administration to deal with the disloyal by new legislation—rests for its success on the loyalty of the civil courts. But President Lincoln was dealing with cases where the civil courts were the very agents weakening the nation's military power. President Wilson has had the support of courts ready to sentence those who violated the selective service act to life imprisonment or long terms. The usual penalties of the Civil War military courts were for the duration of the war, though in many cases executive clemency shortened the sentence or annulled the sentence altogether. Sentence of life or twenty year periods were almost unheard of.

THE historical problem of the Civil War is to know whether the questionable constitutional procedure in the suspension of the writ of habeas corpus was justified by the conditions in the North, though the civil courts were still open. In short, whether in certain districts it was safe to wait until the process of breakdown had reached the point of civil war. The overwhelming majority of Congress authorized the act of which the historians and the majority of the Supreme Court have been critics. The President and his Cabinet reached the unanimous conclusion that the use of the power was necessary. The charge that the Administration exaggerated the disaffection in the Northwest proves nothing. The collapse of the Northwest conspiracy in 1864 is only partly a sign of inherent weakness; it is also a striking evidence that the vigorous Administrative policy adopted in 1863 was bearing fruit. Was not the conflict of the peace Democrats with the administration an attempt to stay a constitutional revolution—one which every crisis in American History has made clearer? That is, the development of the President as the responsible representative of the people, like the English Prime Minister. The American constitutional system, which was derived from the British

and strained to an artificial system of separation of powers has been slowly swinging back nearer the British practice whenever the moorings of peace times are broken by the unusual conditions of war time. President Lincoln's early suspension of the writ was closely parallel to the occasional procedure in emergencies of the British Prime Minister. When an English Prime Minister acting without authority from Parliament suspended the writ as an emergency measure he afterwards turned to Parliament for the legal protection of an indemnity act. Congress failed to give Lincoln the endorsement of an indemnity act until March 3. 1863, but the belated act completed the analogy.

President Lincoln, by his courage as an executive, saved the Union. It is true his call for the state militia to repress state rebellion repelled the middle group of slave states, but it rallied the national forces. It is true his Emancipation Proclamation alienated the pro-slavery element on the border, but it inspired with moral courage the democratic instincts of the North. It is true the assumption of power to suspend the writ of habeas corpus in 1861, and again the use of the power authorized by Congress in 1863, alienated still farther the Peace Democracy, and consolidated it as no other act did, but the same act heartened the other elements of the nation. Buchanan by strict adherence to the letter of the constitution as it may be interpreted without grave danger in peace times, cost the nation four years of War and nearly lost the Union, constitution and all. A judicious student of history may find it difficult to endorse formally acts of questionable constitutionality; a grateful nation will in its judgments cleave through strict legalism, and endorse the acts of an agent whose, like Lincoln's, were so tempered with justice, and served no selfish purpose. May it not be true that the use of such powers in an emergency which a people cannot foresee is the supreme test of statesmanship?

## A NORTHWEST CONFEDERACY TO FORCE PEACE

The movement represented by the Peace Democrats slowly drifted toward the end of 1863 and early in 1864 under the direction of the more radical or revolutionary elements of the party. The state election in Ohio occurred October 13, 1863. It tested the popular strength of Vallandigham. The Union candidate who was himself a War Democrat drew together the Republican and the War Democrat vote, and won. It was a substantial defeat of Vallandighamism. The civil population was nearly evenly divided in the vote, but the soldier vote was about twenty to one against Vallandigham.<sup>78</sup> The defeat of the Peace Democrats in the choice of members of the state legislature was more decisive. No election for local officers occurred in 1863 in Indiana and Illinois. General John H. Morgan's Raid into Indiana and Ohio in July, 1863, was a more striking test of the Peace Democrats and the secret organizations of the Northwest than the election. As the events showed the invasion was a reckless military adventure, but Morgan counted on a panic among the people and some direct aid from the armed bands of Knights of the Golden Circle. In both of these expectations he was completely deceived. Overwhelming forces of local militia were mobilized against him, first by Governor Morton in Indiana and then by Governor Tod in Ohio. His attacks on property of friend and foe offended the Peace Democrats as well as others and rallied all in the local militia in local defense. This position was inherent in the nature of the Peace Democratic movement. They exalted local freedom above everything else. They resented the invasion of the South by northern armies, of Kentucky by Confederate forces in 1861, of Indiana and Ohio by

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<sup>78</sup> The citizen vote for Brough was 247,190, for Vallandigham, 185,274; the soldier vote for Brough, 41,467, for Vallandigham, 2,288. *The Annual Cyclopaedia*, 1863, p. 731.

Morgan, of Pennsylvania by Lee in 1863.<sup>79</sup> The Peace Democrats in the summer of 1863 were serving partisan ends and not the Confederacy, except in indirect ways

Vallandigham had intended, it seems, to return to Ohio in September, 1863, for an active part in the political campaign in open defiance of the Administration, but events which he interpreted as providential turned him from the project.<sup>80</sup> Finally in June, 1864, after an absence of almost exactly a year, he brought his exile to an end. He passed the border at Detroit in disguise, journeyed by rail nearly across the state of Ohio, and in a dramatic fashion, characteristic of the man, revealed himself to his friends in a district convention in session in Hamilton, Ohio, for the purpose of nominating a delegate to the Democratic convention in Chicago.<sup>81</sup> Thereafter Vallandigham threw himself into the Presidential campaign. His speeches were as defiant as ever. The Administration allowed him to bluster and scold either convinced that he was not a revolutionist or hopeful that his selfish partisan appeal would become a boomerang.<sup>82</sup> In fact by June, 1864, the loyal ele-

<sup>79</sup> Vallandigham in the South in May and June in 1863, advised strongly against the invasion of Pennsylvania by the Confederate armies on the ground that it would weaken the Peace Democratic forces. President Davis endorsed across the note which expressed Vallandigham's views his own that experience had proved the contrary. J. B. Jones, *A Rebel Clerk's Diary*, Vol. I, p. 357.

<sup>80</sup> Vallandigham, *Life of Clement L. Vallandigham*, Vol. I, p. 347-9.

<sup>81</sup> Vallandigham, *Life of Clement L. Vallandigham*, pp. 351-4.

<sup>82</sup> Two letters from the Vallandigham Papers at the Western Reserve Historical Society will throw some light on Vallandigham's life at this period.

Dayton, Ohio, July 7/64

My Dearest  
Dear Mother:-

That I cannot with safety start to see you in your present illness, is the sorest of afflictions. But while I feel perfectly secure *here*, I think the Administration would be but too glad to find me alone at a distance from home. . . This danger, too, will pass by before long; but at present it may be too imminent to risk, & I know, my Dearest Mother, terrible as the trial is to both, you would not want me subjected to imprisonment again. And besides I cannot help hoping & indeed believing, that you will yet be spared this time; so that I can come & spend a happy time with you yet in the dear old (home) But give yourself no uneasiness in any event about me. "The Lord's my Shepherd". Neither fear

ment had regained confidence; the turn in the military tide had come; the preponderance of the Northern armies had begun to tell; the newspapers were able to find humor in "Vallandigham redivivus" and the "Great Dug Up".<sup>22</sup> A large faction of the Peace Democrats, those conspicuous at the same time in the military activities of the secret orders, were convinced by June, 1864, that the movement to force a peace without victory would fail at the polls, and Lincoln and a Union Congress be re-elected. These elements saw no hope of success except in a resort to force. The loss of confidence of the Sons of Liberty, as the orders called themselves by this time, in a political revolution was

for Elizabeth nor Rebecca. I will do all for them in my power, & they will remain at the old Homestead.

Oh how great is the denial which keeps me away from you! But Louisa and Charlie go, & she will tell you all, & do all for you that I could. So goodbye, dearest, dear Mother. Still hoping & expecting to see you this Summer on earth, I am yet, as all my life, your devoted, affectionate Son

Clement.

Mrs. R. Vallandigham,  
New Lisbon,  
Ohio.

Dayton, Ohio.  
Nov. 14, 1864.

Miss Rebecca Ann Vallandigham,  
New Lisbon, Ohio.

My Dear Sister: I find it impossible to visit New Lisbon this fall. I could not go between the elections, because I was absent from the State. But will meet you at *Lima* on the Pittsburg Ft. Wayne & Chicago Road, any day this week or next, which you may fix, giving me notice by letter, of the day. You will have no change of cars or baggage from Salem to Lima, & but one meal. The train which leaves Salem between 6 & 8 o'clock in the morning, reaches Lima at 2.34 p. m. & connects with the down train to Dayton on the Dayton & Michigan road.

Brother G. wrote me in July that mother's outstanding bills (funeral &c included) amounted to about 75\$. I enclose a draft for 100\$ in the name of John Robertson, which he will get cashed. Retain 20\$ for yourself and 20\$ for sister Elizabeth, & pay the remaining 60\$ on outstanding bills, & bring me a statement of the balance due before Mother's death, & also since due from you and sister E. for household expenses &c.

I am very sorry that I cannot go on now, but it so happens. My best love to sisters E. & M.; to Mr. R's family & brother George & family; & kind regards to all friends.

Ellen Bell and Mollie go on to Cumberland on Thursday & will be gone some two months. So we shall be alone till you come.

Very affectionately your  
brother Clement

P. S. I wish you would collect all letters &c of mine about the house & have proper care taken of them, so I can have them at any time.

<sup>22</sup> *Ohio State Journal*, June 17, 1864.

probably a result of a growing entanglement of the same forces in a conspiracy for a Northwest Confederacy. It is a noteworthy fact that at the same time other elements of the Democratic Party were confident and the Republicans despondent. The Administration needed a great outstanding victory, commensurate with the military efforts it had expended.<sup>83</sup> Division within its own ranks, indicated by the nomination of Fremont by radical Republicans for the Presidency, and the reports from the Northwest of a gathering storm of violence were cause enough for alarm.

It WAS natural that the Confederate authorities should make the most of any revolutionary turn among the Peace Democrats.<sup>84</sup> Such a developement had long been expected. General Braxton Bragg was led on to an invasion of Kentucky in September, 1862, with visions of becoming the liberator of Kentucky and the entire Northwest "from the tyranny of a despotic ruler". He carried along arms for 20,000 men whom he thought would rally to his standards. A proclamation was sent forth as a broadside appeal to the sectional interests of the Northwest, emphasizing the defensive position of the South, the community of

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<sup>83</sup> For the despondency of the Republicans during the summer of 1864, see Rhodes, *History of the United States*, Vol. IV, p. 520ff. Thompson's letter in *Southern Bivouac*, Vol. II, p. 508; also report of J. Thompson, p. 1.

<sup>84</sup> It is possible to piece together the narrative of the Revolutionary Movement in the Northwest in 1864 from the reports of the Government agents in the *Official Records*, especially in (Series II), Vol. VII, and the testimony of detectives and prisoners who turned states' evidence in the various trials for treason which occurred, especially that edited by Benn Pitman, Recorder of the Military Commission of Indiana, under the title, *Trials for Treason*, but all these are vitiated by exaggeration and passion. An account of the conspiracy was constructed from these sources by the Federal Judge Advocate General, Josiah Holt, in a report to the Secretary of War. A brief, but judicious and exceedingly valuable report was made by the Confederate Commissioner in Canada to Judah P. Benjamin, the Secretary of War of the Confederate States. A longer account of much interest was prepared some years after the Civil War by Captain Thomas H. Hines who represented the Confederacy in the conspiracy, and published in the *Southern Bivouac*, Louisville, (new series,) Vol. 2, nos. 7, 8, 9, and 11. For histories of the episode see Rhodes, *History of the United States*, Vol. V, pp. 320-9; Foulke, *Life of Oliver P. Morton*, Vol. 1, ch. 29. pp. 399 ff; Wm. C. Cochran, *The Dream of a Northwestern Confederacy, Proceedings of The Historical Society of Wisconsin, 1916*, p. 213 ff.



interest with the South, and throwing the blame for the War on the East.<sup>86</sup> Braggs generalship was faulty, and his army was stopped before Louisville. The accretion to his army from Kentucky barely equaled a brigade, less than his casualties in the undertaking. The proclamation had no appreciable effect. Yet the doctrine that only minor misunderstandings separated the Southwest from the Northwest would not down. It was a common theme with newspaper writers of the Southwest that the principle one of these was commercial. Those who held this view urged that the Confederate States remove the difficulty by pledging to the Northwest the free navigation of the Mississippi whenever the independence of the South should be acknowledged.<sup>87</sup> As a matter of fact the Confederate Congress had done so at the beginning of the War. But writers had in mind a special pledge to the Northwest as an allied republic.

As the Confederate armies felt the pressure of the Union armies in 1864 the Peace Democrats of the Northwest became the last string of the three in the Confederate bow.<sup>87</sup> The southern interest in the possibilities of the Northwestern situation gained momentum with experience and the increasing desperateness of its cause. A writer in the Knoxville Daily Register maintained as early as May 12, 1863, that the War could not be ended until the Northwest was separated from the rest of the United States. Some saw the forces of

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<sup>86</sup> The proclamation was published in the newspapers and circulated as a broadside. (See inset in fac-simile.) It was published in the *Chattanooga Daily Rebel*, Oct. 19, 1862. See *Official Records*, Vol. XVI, part 1, p. 1088, part 2 p. 822.

<sup>87</sup> *Knoxville Daily Register*, March 11; March 26, April 24, 1863; *The Chattanooga Daily Rebel*, March 27, May 30, 1863; *The Staunton Spectator*, July 7, 1863; *Augusta, Daily Constitutionalist*, February 15, 1863; *Athens (Tenn.) Post*, February 13, 1863.

<sup>87</sup> (1) The military resources, dash, courage, and homogenous white population. The contempt of the South for the military qualities of the northern population was a part of this view; (2) the mediation or intervention of Europe on account of a cotton famine; (3) the community of economic interest of the Southwest and the Northwest.

# TO THE PEOPLE OF THE NORTHWEST.

## HEAD QUARTERS,

by their own consent. We desire peace now. We desire to see a stop put to a needless and cruel effusion of blood, and that waste of National wealth rapidly leading to and sure to end in National bankruptcy. We are therefore now, as States or any one or more of them upon terms of mutual justice and liberality. And at this juncture, when our arms have been successful on many hard fought fields, when our people have exhibited a constancy, a fortitude and a courage worthy of the loon of self government, we restrict ourselves to the same moderate demands that we made at the darkest period of our reverses—the de-

tions. With the passions of this mutual war shall have subsided, and reason resumed her sway, a community of interest will force commercial and social coalition between the great grain West and the cotton, tobacco, and sugar regions of the South. The Mississippi river is a grand artery of their mutual National lives which men cannot sever, and which never ought to have been suffered to be disturbed by the antagonisms, the cupidity and the bigotry of New England and the West. It is from the East that have come the germs of this deadly and most unnatural strife.

remains the responsibility and the option of continuing a cruel and wading war, which can only end after still greater sacrifices in such loss of peace as we now offer; or of preserving the blessings of peace by the simple abandonment of the design of subjugating a people over whom no right of dominion has been conferred on you by God or man.

BRANTON BRAGG.

Gen. C. S. Army.



the Northwest in truer proportions. "Of all the humbugs of the age", one southern iconoclast wrote, "this Northwestern hobby is the most absurd, and at the same time the most dangerous. Newspapers, having exhausted themselves on the European intervention, are now trying to raise our hopes by the promise of a new alliance".<sup>88</sup> An article by a southern planter, published in the *Chattanooga Daily Rebel*, attracted considerable attention. It outlined the plan of those who would nurture a new secession in the United States. The document is here reprinted entire as a type of the point of view of those in the south who were looking to the Northwest with hope.

"Hon. H. S. Foote, Richmond:

DEAR SIR:- Your efforts to suggest some plan by which the war might be shortened have been praiseworthy. So little had been indicated north of the Ohio river that it left every move open to serious objections.

Time and efforts produce by the valor of our troops, seem to have given existence to a sentiment which deserves a watchful attention from statesmen of the South.

This sentiment is found among the agricultural interests in the "Northern" Valley of the Mississippi river, and mainly among the old Democrats of that region. We occupy a position now, and have always done so, that we could not make proposals to the Lincoln Government. That is the true position still. To that, we bid defiance; but to the legislatures of Indiana and Illinois, and other states of the Northern Valley of the Mississippi, which may come to their conclusions, I hold a different policy to be correct. We should meet their resolutions with all the concessions which we can consistently make in trade and general commerce, including, of course, the free navigation of the Mississippi river, upon conditions thus:

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<sup>88</sup> *Knoxville Daily Register*, May 5, 1863; a warning was also published in the *Augusta Daily Constitutionalist* Jan. 27, 1863.

1st. Indiana, Illinois, Wisconsin, Iowa, Kansas and Minnesota, and perhaps Ohio, shall form the "Northern Confederacy".

2d. Both Confederacies, "Southern" and "Northern", to be politically independent. All the slave states to belong to the "Southern Confederacy."

3d. A league between the two, offensive and defensive, and runaway slaves to be returned; the navigation of the Mississippi river and free trade, and "imports" at our tariff.

Advantages to both "Confederacies," The "Southern Confederacy" obtains peace. A strong Ally in War and protection to slavery. Her independence acknowledged by the Northern Confederacy, which will be sufficient. She obtains for her seaboard cities the importations for both Confederacies, and their freight on her rivers and railroads.

The "Northern Confederacy" gets rid of the responsibility of slavery. It may assume whatever portion of the immense war debt now existing, they may decide upon.

It secures importations at our low tariff. It secures its former market in the South for its agricultural productions and the same use of the great Mississippi river. Its political independence gives position and place to its rising statesmen. Its topography and unity of pursuit, institutions and labor; secure harmony and legislation, and promise great prosperity. The two together secure the adjacent territories, a very important point; as they cannot be united to the remnant of the old United States, lying East; including New England which brought on the war. The two Confederacies would become the great "powers" of the American Continent.

The "Southern Confederacy," based upon slave labor, would always preponderate in intellect; and would control.

I present this to your well stored, prolific mind, as an outline of what may come out of a wise course in

meeting the sentiment of the "North West", heretofore alluded to.

It is true they have fought us; invaded our country; and wronged us terribly; but that is done, and cannot be recalled. It is a matter of incalculable advantage to our Confederacy—to stop the sacrifice of life, and of some importance to limit the debt, and restore our citizens to their homes. Concession can be made to the "Northern Confederacy" formed of the States named; which will stop the war and will benefit us at the same time. As a cotton planter, and slave owner, I would greatly prefer the league, on the terms mentioned, to separate independence, with the enemy of that people, to the institution of slavery. As soon as they are disconnected from slavery, it will cease to be discussed, everywhere.

If we are not strong, it may generate another war. The League gives great strength. Under this league, can be embraced what they mean by reconstruction. That is, their position will be as good, or better than before, and 22 States will be in the league instead of 33, But the New England States, New Jersey, Delaware, &c., are of no importance to them. They have secured the market and trade, and for these they were fighting; and are also politically disconnected from slavery. Indeed they thus obtained all they are contending for. They say they are not fighting to free the slaves. We obtain all we are contending for.

I find ultra men, unwilling to do anything, but fight on. They are not in the army, I have been with the army since its organization. I know the opinion and sentiment of the army. They have suffered sufficiently, and desire peace.

If the North-west are met on the basis proposed herein, I think we will enter the wedge which will sunder the present authorities conducting the war. Lincoln will carry on the war during his administration, if he can get the support of these states. We then should be on the alert, and if possible, deprive him of

this portion of his army. The balance we can whip, very soon, if necessary. We can conquer a peace from them; but that will not be necessary. If Indiana and Illinois withdraw the war will close. With these proposals before them, they won't fight longer. The other States named will follow, or some of them at least.

If this be neglected on our part, the leading men may be offered positions, which would neutralize their efforts.

These States are a part of the Mississippi Valley and their true alliance is with the South. They are an agricultural people, and so are we; but their products are different from ours, and hence the advantages in a commercial league.

Negotiations must begin sometime—fighting alone won't adjust a difficulty.

I have seen so little of the proceedings of Congress, that I am ignorant of what has been discussed.

The prominent idea is this. We make no proposition to the Government, but we should put in some shape what we will do with certain States, so as to induce them to cease waring.”<sup>90</sup>

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A considerable correspondence arose between those in the Southwest and the Northwest who had become interested in the Northwest Confederacy.<sup>90</sup> Undoubtedly Governor Morton of Indiana had the economic conditions, which caused this project, in mind when he urged on President Lincoln a vigorous campaign on the Mississippi River.<sup>91</sup> Political as well as military expediency prompted the campaign which opened the Mississippi to the Gulf by mid-summer of

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<sup>90</sup> From the *Chattanooga Daily Rebel*, March 13, 1863. See also an article under the heading “*A Grand Programme for Forming a Northwestern Confederacy*” in the *Richmond Enquirer*, February 16, 1862; and General Beauregard's letter, May 26, 1863, on the proper policy of the South in *Official Records*, (Series I,) Vol. XIV, p. 955.

<sup>91</sup> A collection of such letters was published in the *Cincinnati Commercial* in September, 1865.

<sup>92</sup> *Morton to Lincoln*, October 27, 1862, in Foulke, *Life of Oliver P. Morton* Vol. I, p. 211.

1863. The counter stroke of the Administration undoubtedly weakened the movement among the Peace Democrats of the Northwest which was rising in the South. At the very time when the South was becoming anxious for a Northwest Confederacy, the economic foundations of the Peace Democracy were crumbling. Such are the vicitudes of history.

Oblivious of the declining interest of the farmers of the Ohio Valley in secession as a method of recovering river markets, the radical leaders of the Peace Democracy prepared their cohorts during the spring of 1864 for revolution. At the same time Confederate authorities yielded to the growing pressure of those at the South who had confidence in the opportunity to embarrass the United States with a Northwest Confederacy. Three commissioners, among them Jacob Thompson who was Buchanan's Secretary of the Interior, were sent to Canada. One function of the commission was to nurture the peace factions of the United States, and weaken the will to continue the War. The approaching Presidential campaign was unquestionably the particular occasion of President Davis' peace drive. But the military function of the Commissioners was in no sense secondary. The loss of Missouri, Arkansas, Louisiana, Tennessee, and Texas, as well as the greater part of Mississippi and northern Alabama had seriously reduced the population from which the Confederacy was able to recruit its armies and garner its supplies. The prison camps of the Northwest and the Confederacy of the Northwest held out tempting possibilities. Captain Thomas H. Hines who had been captured in Morgan's raid and with his chief escaped from prison was detached from the Confederate army to organize the military activities entrusted to the commission. Other officers were detailed to co-operate with Captain Hines.

The Confederate commissioners achieved one result from the peace drive. They drove a wedge which threatened the unity of the Union Party. Horace



Greeley had never ceased to believe in a negotiated peace, one without victory. In 1862 and 1863 his faith was pinned to mediation. He corresponded with Vallandigham and the French minister at Washington in his efforts to "drive Lincoln into it".<sup>92</sup> In July, 1864, he became interested in a report that Confederate Commissioners were in Canada with powers to negotiate for peace. President Lincoln sent Greeley to Niagara Falls to look into the matter. "I not only intend", said the President, "a sincere effort for peace, but I intend that you shall be a personal witness that it is made".<sup>93</sup> Greeley bore the President's terms.

### Executive Mansion.

*To Whom it may concern: Washington, July 18, 1864.*

*Any proposition which embraces the restoration of peace, the integrity of the whole Union, and the abandonment of slavery, and which comes by and with an authority that can control the armies now at war against the United States, will be received and considered by the Executive government of the United States, and will be met by liberal terms on other substantial and collateral points. and the bearer, or bearers thereof, of shall have safe-conduct both ways.*

*Abraham Lincoln*

<sup>92</sup> See Vallandigham, *Life of Clement L. Vallandigham*, p. 223; the *Diary of H. H. Raymond*, *Scribner's Monthly*, Vol. XIX, March 1880, pp. 705, 706, 708; *The New York Tribune*, Dec. 27, 1862, Jan. 9, 14, Feb. 13, 1863; Nicolay and Hay *Lincoln*, Vol. VI, p. 83.

<sup>93</sup> Nicolay and Hay, *Lincoln*, Vol. IX, pp. 185-189. Holcomb, one of the Commissioners, *Report to J. P. Benjamin*, Nov. 16, 1864, p. 11.

They were reunion and the abandonment of slavery. The would-be peace-maker found the Confederate commissioners without authority to negotiate peace. That was not their commission in Canada. The episode alienated Greeley still more; it gave offense to those in the Union Party who thought the abandonment of slavery made the terms of peace too harsh.<sup>94</sup> Greeley's point of view was that of the theoretical pacifist. He followed the illusion that if the Administration would talk peace, gently and tactfully, enough, the enemy would yield all. As a matter of fact President Lincoln made every reasonable effort to save needless warfare. If the Confederate Commissioner, Jacob Thompson, is a creditable witness, the Secretary of War, Stanton, sent Jeremiah S. Black, to Toronto to confer with himself and his associates on the subject of peace. Black, Stanton, and Thompson had all been members of Buchanan's Cabinet, and intimate friends. Black, like Greeley, was apparently trying to become a mediator.<sup>95</sup> The report of the two Agents from Lincoln to Davis directly in the summer of 1864 showed how vain was the view that a peace could precede a complete victory.<sup>96</sup>

In THE meantime the military project of the Commission had not been overlooked. When Thompson and Captain Hines arrived in Canada they found Vallandigham still at Windsor. A conference with him taught them that he was friendly disposed but still determined not to allow his cause to be identified with that of the Confederate States. A year of exile in Canada had not moved him from the resolution he had taken when sent from prison through the Confederate lines. Thompson and Hines were liberally supplied with money, and ready to promote Vallandigham's

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<sup>94</sup> Nicolay and Hay, *Life of Lincoln*, Vol. IX, p. 196; Greeley, *American Conflict*, Vol. II, p. 664; See Rhodes, *History of the United States*, Vol. IV, pp. 513-4.

<sup>95</sup> Thompson's Letter, August 23, 1864 in *Southern Bivouac*, Vol. II, p. 500.

<sup>96</sup> For the story of the irregular mission of the President's agents, Col. James F. Jacques and J. R. Gilmore, see Rhodes, *History of the United States*, Vol. IV, p. 515.

cause. The Supreme Commander of the Sons of Liberty would accept none of the Confederate fund; subordinates among the Sons of Liberty were found who were less scrupulous.<sup>97</sup> Vallandigham confined his activities, consistent with his representations, to the political phases. He never spoke of the use of force to help the South; he did to defend the civil liberty of his section. It was his opinion on the eve of his return to the United States in June, 1864, that the Administration would arrest him, and the Northwest rise in revolt in his defense. So he expressed himself to the Confederates at the conference. They had in fact a delicate task in using money to promote the revolutionary movement in the Northwest. Thompson claimed to have half a million dollars for the purpose, but it seems from his report that he actually spent only \$200,000 of it. Boxes marked "pick-axes," "hardware," "nails," "household goods," "Sunday school books," and the like carried revolvers, rifles, and ammunition from Canada to the officers of those bands of Sons of Liberty who could be trusted.<sup>98</sup> The Commission would seem to have wasted no small part of its resources in visionary schemes of well meaning persons and in satisfying the claims of vicious unworthy refugees about the headquarters in Canada.

The result of the conferences between the revolutionary leaders in the Northwest and the Confederate agents in Canada finally took the form of a plot for an uprising on July 20, 1864.<sup>99</sup>

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<sup>97</sup> Hines in *Southern Bivouac*, Vol. II, p. 506; *Report of J. Thompson*, p. 1; Foulke, *Life of Morton*, Vol. I, p. 401.

<sup>98</sup> Pitman, *Indiana Treason Trials*, p. 41; *Report of Judge Advocate General, J. Holt*, p. 6; *Report of the Adjutant General of Indiana*, Vol. I, p. 298; *Official Records*, (Series II,) Vol. VII, pp. 631, 646, 728.

<sup>99</sup> A report from a federal agent in the Northwest says the Order of American Knights had planned an uprising in March, and another July 4, 1864. If so, these were separate movements of the secret societies and not the larger project of the Confederate agents and the Radical Peace Democrats. See *Official Records*, (Series III,) Vol. IV, p. 579.

The Confederates were to furnish a few score from the bands of refugees in Canada. These were to make their way to the prison camps in Indiana and Illinois, and in co-operation with the local revolutionaries set free the prisoners. The whole would then form the nucleus of a gathering army. Provisional Governments take the place of State Governments; a Northwest Confederacy be created; and alliance be made with the Confederate States. Such was the dream of the Confederates and Sons of Liberty. As the date for the revolt approached, the confidence of the officers of the Sons of Liberty in their own preparations sank. Public meetings held over the Northwest to prepare the way only emphasized the faith of the masses in the ballot rather than the rifle. The local orators said little of an appeal to force, and much of a partisan victory. A new conference of Confederates and Copperheads assembled. The date for the outbreak was put off until August 16. This time an opportune seizure by federal authorities of the arms intended for the use of the Sons of Liberty in Indianapolis; the arrest of Judge Bullitt of the Kentucky Copperheads; the outspoken opposition in Indiana within the Democratic Party to revolt; all had a share in the failure of the Peace Democrats to become revolutionists when the new crisis came. An intimate knowledge of the crudeness of the organization of the military side of the movement was a depressing force.<sup>100</sup> The Confederates were getting desperate for results. The Peace Democrats still thought time was with them. "By patience and perseverance in the work of agitation", one of them said, "we are sure of a general uprising which will result in a glorious success. We must look to bigger results than the mere liberation of prisoners. We should look to the grand end of adding an empire of Northwestern States".<sup>101</sup> The Confed-

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<sup>100</sup> Hines, in *Southern Bivouac*, Vol. II, p. 508. Report of W. H. H. Terrell the Adjutant General of Indiana, Vol. I, p. 309.

<sup>101</sup> Hines, in *Southern Bivouac*, Vol. II, p. 507.

erates were ready to depend on the resources in sight; The Peace Democrats, estimating these more accurately, insisted that the movement could only succeed in case the Confederate States diverted considerable armies in co-operation with the revolt in the Northwest. Information of the new conditions imposed by the Northwestern leaders was passed on to the Confederate Government, but the day was past for a Confederate invasion of the Northwest, whatever the promises might have been.<sup>102</sup>

August 16 passed without an outbreak. A third effort of the parties to the conspiracy to get together was made under the cover of the Democratic Convention which assembled in Chicago, August 29. The Convention adopted a Peace platform and nominated a War candidate, thus attempting to carry water on both shoulders. The platform makers under Vallandigham's influence declared the War a failure, denounced violations of the constitution and attacks on civil liberty under the pretense of military authority, and announced the Democratic plan that "immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of the States or other peaceable means, to the end that at the earliest practicable moment peace may be restored on the basis of the Federal Union of States."<sup>103</sup> The nomination, however, of George B. McClellan, a popular Union General and War Democrat, who promptly repudiated the peace plan of the platform, showed the confusion of party councils at Chicago.<sup>104</sup> The Compromise represented the clash in leadership of Vallandigham with Governor Seymour of New York.

The Convention adjourned and a third time the rumors of revolt died away. The evidence records a

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<sup>102</sup> Hines, in *Southern Bivouac*, Vol. II, p. 508.

<sup>103</sup> McPherson, *History of the Rebellion*, p. 419.

<sup>104</sup> *McClellan's letter of repudiation*, September 8, 1864, *Appleton's Annual Cyclopaedia*, 1864, p. 794.

flocking into Chicago hotels during the Convention of Confederate filibusters in the confidence of the revolutionary faction of the Peace Democrats. Captain Hines claimed to have sixty Confederate officers and soldiers. The Copperheads claimed they could muster 5000 members of secret societies in and about Chicago for co-operation. Estimates of the number actually available have little value. The conspirators met in the Richmond house and laid the plot. At Camp Douglas, a sixty acre camp on the Chicago river, was a body of 4377 Confederate prisoners guarded by 2974 Union soldiers. According to the plan the conspirators were to charge the camp, release the prisoners, and from Federal arsenals nearby arm and supply the whole. The project was nothing less than a foolhardy one. A conference on the night preceding the appointed day, and a calm stock-taking sobered the architects of a Northwest Confederacy. Federal detectives had dogged every step of the conspirators. The force on guard at the camp had been nearly doubled for the occasion. A disorganized mob however well led was no match for the organized and alert forces on guard. In short, the vigilance of the Administration saved a costly encounter, nothing more. There never was a chance of success, for every step of progress the radical forces had made toward revolution had been known and met by counter measures of the Government.

The Confederate authorities in Canada were convinced by the experience of July and August, 1864, that no direct military advantage was to be gained for the Confederate cause from the Peace Democrats by longer delay and devoted their efforts to embarrassing the United States through undertakings which were based on their own strength. Each was scarcely more than a small filibustering expedition on a loosely guarded frontier. In September a gang of Confederates operating from Canada attempted to seize the single ship of war of the United States on Lake Erie, the *Michigan*,

and with it liberate the prisoners at Johnson's Island in Sandusky Bay, advance on Cleveland by land and water, and thence cut the way across the state of Ohio to Virginia, spreading demoralization on the way.<sup>105</sup> The adventurers succeeded in capturing two passenger steamboats as the first steps toward the control of the naval forces on Lake Erie. But, as had been the case on earlier occasions, detectives had pursued the tracks of the leaders, and timely arrests foiled the co-operation anticipated. In reality the crew of the *Michigan* outnumbered the conspirators five-fold, and moreover were not to be taken off their guard. The Confederate crews took discretion to be the better part of valor, refused to risk a battle with the *Michigan*, destroyed their embryonic fleet, and scattered in Canada.

Confederate agents and lawless elements under the cover of the state of the times, it is not possible to determine which it was, conducted a constant attack on property throughout the Northwest. Gunboats and freight boats on the rivers mysteriously took fire. Houses and barns were burned.<sup>106</sup> A propaganda was carried on by the Confederates in Canada in order to discourage enlistment in the Union armies and the subscription to federal bonds. The people were given the gratuitous advice to convert greenbacks into gold for safety. Agents in New York city bought gold, shipped it to Canada, and sold it for sterling bills of exchange, only to repeat the operation, in order to embarrass Federal financing. But there is no evidence that any of these efforts were significant factors in the great struggle.

THE danger of civil war in the Northwest passed in September, 1864. The Treason Trials of six of the leading Sons of Liberty in Indiana in September and October, and the death sentence of three demonstrated

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<sup>105</sup> Nicolay and Hay, *Life of Lincoln* Vol. VIII, p. 18; Hines, in *Southern Bivouac*, Vol. II, p. 699; Thompson to Benjamin, p. 2.

<sup>106</sup> There is a great deal of testimony on this subject in the *Original Record s*, (Series II,) Vol. VII. See also (Series III,) Vol. IV, pp. 579, 791.

the power of organized society.<sup>107</sup> The capture of Atlanta on September 3 gave the lie in a spectacular manner to the declaration of the Peace Democrats in Convention in Chicago that the War was a failure. The reelection of Lincoln and the decisive Union victory at the polls in the Northwest in particular drove home the illusion of those who counted on the overthrow of Lincoln by any means. The Sons of Liberty sought shelter in the fall of 1864 under new names like the "Order of the Star," etc., but their force was gone. The march of events in favor of the Union went steadily, overwhelmingly on. Sheridan's devastation of the Shenandoah in October, and Sherman's in Georgia in December foreshadowed the approaching end. In January, 1865, Vallandigham made a final appeal for a negotiated peace.<sup>108</sup> He appealed to Horace Greeley who was reported to have renewed his pressure on Lincoln. Vallandigham had not changed his attitude in the slightest in four years. The war was still described as the work of a self-willed, self-seeking group of Republican politicians; the South could never be subdued. The letter concluded that the suggestion that useless loss of blood could be saved by a combination of the Peace elements of the Republican and Democratic parties. But the prestige of the leaders of these elements, Greeley and Vallandigham, was waning fast, along with the declining Confederacy.

A few days after Vallandigham made his appeal to Greeley, President Lincoln and Secretary Seward met representatives of the Confederacy at Hampton Roads. The story of the origin and temper of the conference is a striking record of the genuine pacific purposes of Lincoln, linked with sound national pol-

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<sup>107</sup> Lambdin P. Milligan, one of these, was the appellant in whose behalf the Supreme Court in 1866 pronounced the particular military commission which had tried him invalid, and against Martial Law when Civil Courts were open.

<sup>108</sup> Vallandigham, *Life of Clement L. Vallandigham*, p. 402



licy.<sup>100</sup> The conference was of no avail. Jefferson Davis and his advisors were undismayed by the march of events. They were still unwilling to drink of the bitter cup of reunion and emancipation. The terms spelled a humiliating defeat. Davis assumed that the conference was "for the purpose of securing peace to the two countries;" Lincoln, "to the people of our one common country." It would seem that peace on some other terms than those Grant gave Lee of unconditional surrender were the great phantom that pacifists, States' Rights, partisans, and pro-southerns chased throughout the Civil war. As a matter of historical fact the "Union as it was" disappeared as American society adjusted itself to the freedom of the black race; "the constitution as it is" ceased to trouble the conservatives when it became apparent in peace times that civil liberty and the new nationalism were not irreconcilable.

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<sup>100</sup> Rhodes, *History of the United States*, Vol. V, p. 59.

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**1919**



Publication No. 100

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2

STATE OF OHIO

These Articles of Incorporation of  
THE WESTERN RESERVE HISTORICAL SOCIETY

*Witnesseth*, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation not for profit, under the general corporation laws of said State, do hereby certify:

FIRST. The name of said corporation shall be The Western Reserve Historical Society.

SECOND. Said corporation shall be located and its principle business transacted at the City of Cleveland, in Cuyahoga Conuty Ohio.

THIRD. The purpose for which said corporation is formed is not profit, but is to discover, collect and preserve whatever relates to the history, biography, genealogy, and antiquities of Ohio and the West; and of the people dwelling therein, including the physical history and condition of the State; to maintain a museum and library, and to extend knowledge upon the subjects mentioned, by literary meetings, by publication and by other proper means.

*In Witness Whereof*, We have hereunto set our hands, this seventh day of March, A. D., 1892.

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## DIRECTOR'S REPORT

In beginning our report last year, attention was called to the Great War in which we had become engulfed and some of its consequences, also the work that this Society should undertake in its connection. Little did we then realize what the war would cost; how many lives would be sacrificed; how it would affect our institutions and industries.

True, at the time of our last meeting, over a year had passed since the President had declared war (April 6, 1917) and within a month from that time, on May 4, 1917, the first U. S. Navy Squadron had reached England. Conscription registration day had soon followed and a few weeks later the first of the United States forces had landed in France, but it was not until last spring that the United States fairly awoke to a realization of what it had to do. Only 300,000 men had been up to that time sent to France. With peace made with Russia by the Germans, releasing her vast forces for the Western front; with the disaster in Picardy to the Fifth British Army under the leadership of General Gough, the United States commenced to send her men abroad at the rate of 300,000 a month. She did not have the means of transportation, nor the guns and airplanes necessary, but her allies, England and France, supplied these. It was only eleven months ago that our boys of the Fifth and Sixth Regiments of Marines were put to the supreme test at Chateau Thierry, where they repulsed the attack of the Prussian Guard. Events then followed rapidly one after another, until the Armistice was signed November 11th, 1918. Every effort of the American people was turned to aiding and bringing to a successful termination this titantic struggle.

Our various institutions curtailed their work, loaned their employees, and gave assistance in any way that would be of aid to the government. Many employees, either from patriotic reasons, or on account

of the greater wage, offered by the government, left our public institutions short-handed and it was almost impossible to fill their places.

When we look back over the work of the year with these disconcerting things happening on all sides, we can feel that we have done reasonably well, not by any means what we would like to have done, but as much as could be expected when one person was trying to do the work of two.

We lost during the year from our employees our entire cataloguing force. Miss Claflin, who had been a most capable and faithful helper, and head of our cataloguing department, left to take a position with the Federal Reserve Bank. Miss Oldham, who had been an admirable assistant, left about the same time to go back to the Public Library. Mr. Pierce, our custodian, tempted by the large wage offered, went into munition work. This cut our small force in two. On December 4th, Miss Minnie Bushfield, who had been our reference assistant for a year, was stricken with the "Flu" and in three days passed away.

It would not be fair to Mrs. Webb and Miss Allen who remained, not to say a few words of appreciation. The work that fell on them for the time being was greatly increased, but they willingly assumed the extra duties, and we managed to get along.

In December, Miss Katharine B. Judson, a woman who has had more than ordinary educational advantages, and a good cataloguing experience, accepted the position of cataloguer. Miss Harkness, a student from Alleghany College, was made assistant in the same work. Both Miss Judson and Miss Harkness were in governmental work during the war and came to us on the closing of their respective offices.

For some weeks the building was closed on account of the "Flu," but the force kept on working.

## NECROLOGY

In the list of the membership of our Society each year we have to note the death of some one or more of its members. This year we have lost from our patrons two: Mrs. Mary S. Bradford and Howard P. Eells; from our Life members, three: Mr. H. R. Edwards, Mr. Leonard C. Hanna, and Miss Mary E. Ingersoll. Of the Annual members we have lost Mr. W. H. Quinby, who died in October, 1918.

## MRS. MARY S. BRADFORD

A patron and interested friend in our Society through many years. Mrs. Bradford after several years of confinement on account of poor health passed away July 11, 1918.

Mrs. Bradford was born in Cleveland, October 10, 1832; one of six children that constituted the family of her parents, Joel Scranton and Irene Hickox Scranton. Her grandfather, Stephen Scranton, lived in Belchertown, Massachusetts, and it was there her father, Joel, was born in 1793. In 1819 Joel came to Cleveland. Ten years later, in June, 1829, he married Miss Irene P. Hickox, the daughter of David and Phoebe Post Hickox. Irene was born in Kinsman, Ohio, in 1817. She received her education in the East at the Female Academy at Litchfield, Connecticut; then returned to Ohio and started a school at Kinsman. Later she was persuaded to go to Warren where her success only increased and as her reputation became more widely known, her services were eagerly sought for and Cleveland gained the prize. Moving here she opened a school for girls in a wooden building near the present site of the American House.

Miss Mary Scranton's inheritance from her parents was two fold, on the one side, a deep interest in Cleveland's beginnings, its business development and everything that pertained to its activities; on the other side, she received from her brilliant mother a

still deeper interest, which became more manifest in later life, in everything pertaining to the uplift of the people, especially the young girls living here, not only in relation to their educational advantages, but also to their social betterment. She was deeply interested in literature and accumulated a large library of the best that had been published.

Miss Scranton married William Bradford May 3, 1858. Her husband's death occurred in August, 1873. One child was born to them but died in early infancy. Still she always had the young with her, adopting as a daughter her cousin Ella Bradford, who later became the wife of the Rt. Rev. William Montgomery Brown. Mrs. Frank Meade of this city lived with Mrs. Bradford from girlhood, and when married, both Mrs. Meade and her husband made their home there.

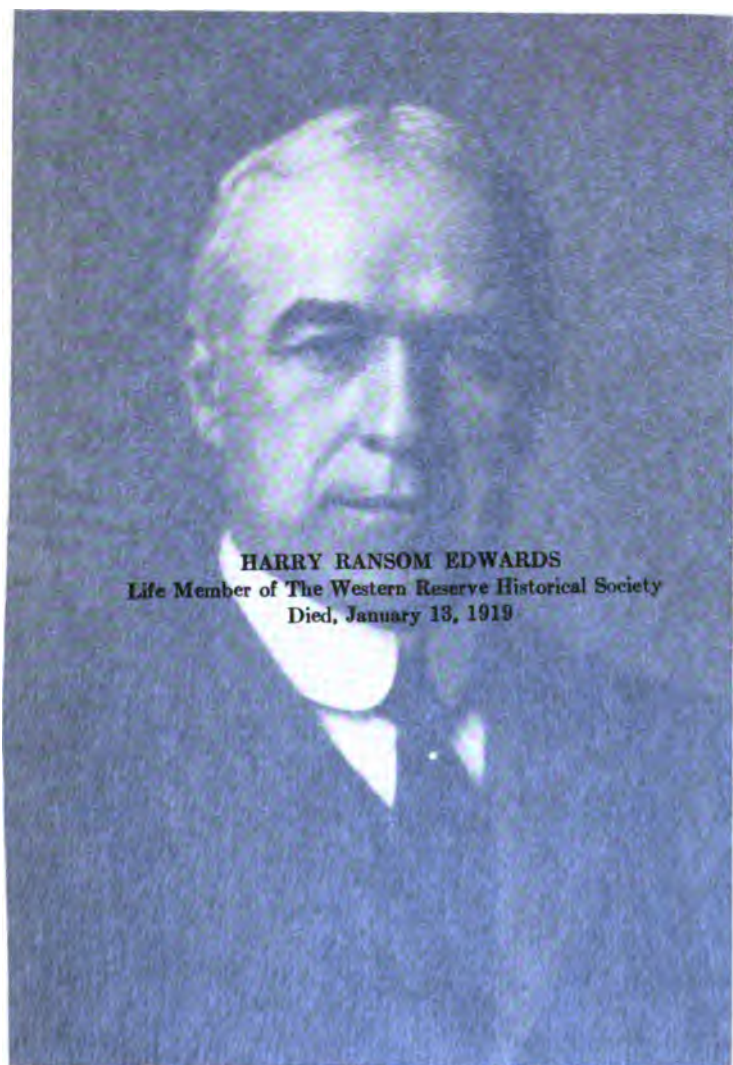
Mrs. Bradford's sympathy and love for the old or homeless was manifested in the founding in 1856 of the Trinity Church Home for Sick and Friendless, on whose Board of Managers she was very active.

She was equally interested in the founding and growth of the Western Reserve School of Design for Women, now the Cleveland School of Art, and was its honorary President for many years.

In her passing, Cleveland loses the last of one of its early pioneer families, for all of the eighty-six years of Mrs. Bradford's life were spent here. Her life so full of sweetness, sympathy, and helpful suggestion, made her endeared to all and although she is not here, her influence in the shaping and planning of various institutions she was connected with, or aided, will be felt as long as they endure.

#### HARRY RANSOM EDWARDS

Harry Ransom Edwards, a man loved by all who knew him; a successful merchant, a son of one of Cleveland's most distinguished families, passed away January 13, 1919, leaving a sister, Mrs. Chas. A. Otis, a brother, General Clarence R. Edwards, and a host of friends to mourn his departure.



**HARRY RANSOM EDWARDS**

**Life Member of The Western Reserve Historical Society**

**Died, January 13, 1919**





Mr. Edwards was a life member and ever a willing supporter of this Society. He was born December 25, 1861, the son of Colonel William Edwards and Lucia Edwards. No better heritage could a man have had than Harry Edwards. His mother was the epitome of hospitality, kindness of heart, and generous interest in everything pertaining to Cleveland's welfare. His father possessed a strong virile disposition and was a good business man, one who could take a positive stand through conviction, yet retain the friendship of those who might be involved. It was the combination of these two dispositions that made the son the man he was.

In private life he was modest, kind, true to all of his friends. He never married but gave all the strength and affection of his manhood to his mother, who passed away November 12, 1914, in her eighty-second year; his father Col. William Edwards having died September 21, 1898.

Mr. Edwards received his early education at the old Brooks Military Academy in this city, being the second son of the Edwards family to go to this school. His brother, now General Clarence R. Edwards, was there about the same time. Harry, on completing his course in 1879, went to Harvard where he graduated in the class of 1883. In August of the same year he entered his father's business, then known as the Edwards, Townsend and Company, Wholesale Grocers. Later in 1886 the firm's name was changed to William Edwards and Company and on its incorporation in 1906, he became its Vice-President and Treasurer, which position he retained until his death.

In politics he was a staunch Republican, yet he was truly democratic, for when the majority had elected he gave that man or group of men his support in all their good efforts.

He was a Director of the Guardian Savings and Trust Co. and a member of the Advisory Board of the Citizens Savings and Trust Company. He was prom-

inent in Club circles, being a member of many of the leading social clubs of Cleveland.

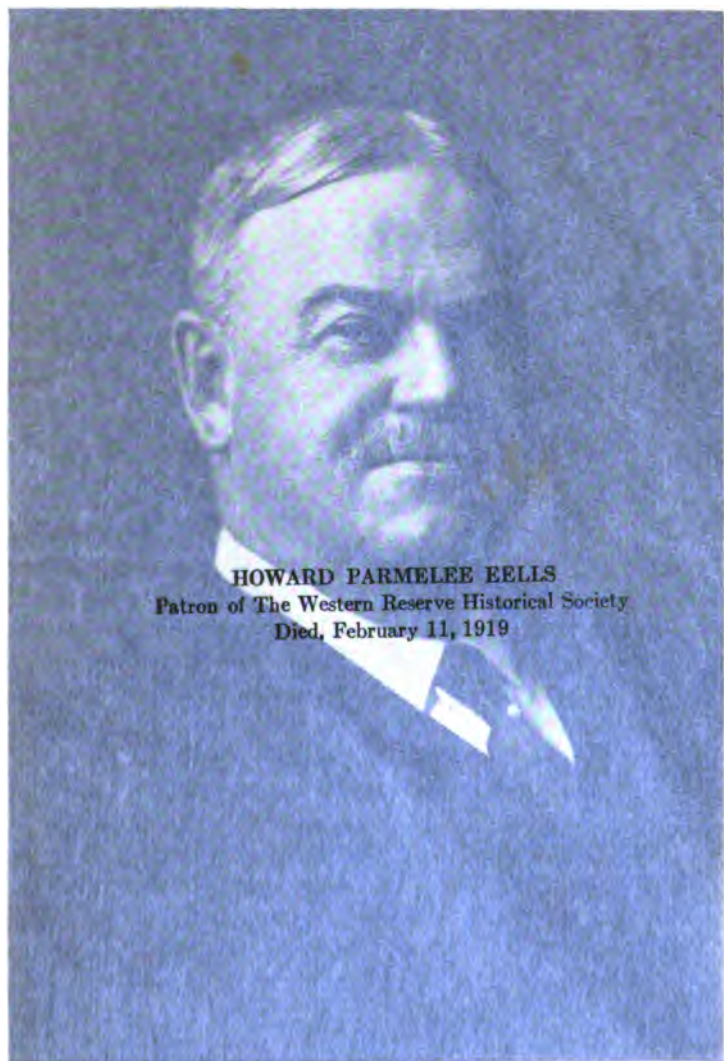
In closing this brief sketch which only inadequately portrays his fine nature and character, perhaps no more fitting words could be used than those expressed in the resolution adopted at his death by the Board of the National Commercial Bank of this City of which Mr. Edwards was the director as well as a member of its Executive Committee. "His business career was one of brilliant success—a merited success, won by untiring industry and devotion to the affairs of the William Edwards Company. The growth of this company is in large measure due, not only to Harry Edward's industry, but quite as much to the man himself. He was of retiring, modest disposition, but, in his quiet way, aggressive and persistent, while his charming personality attracted and retained social and business friendships.

By hundreds of employees of the William Edwards Company he was respected and loved as a kind and considerate employer and the friend of each, ready to rejoice in their successes and to succor in their times of trouble. When he was taken from this community he left sorrowing hearts in thousands of Cleveland citizens.

There was no company in social or business life which Harry Edwards did not grace. He was an educated gentleman, a successful man of business, a citizen interested in all good works, an ideal neighbor, a charming social companion, a shining example of all which is best in life. We bow our heads in sorrow that he is no longer with us, and shall ever cherish in affectionate memory the loveliness of his life and his loyal friendship in this institution and the members of this board."

#### HOWARD PARMELEE EELLS

On February 11, 1919, Howard Parmelee Eells passed away after only a few hour's sickness. He was a patron of this Society and a man most active in Cleve-



**HOWARD PARMELEE EELLS**  
Patron of The Western Reserve Historical Society  
Died, February 11, 1919



land's business, social and philanthropic life. Mr. Eells' death is and will be felt keenly in many of the larger activities of Cleveland.

His father, Dan Parmelee Eells was a direct descendant of Major Samuel Eells, who left England about 1630 and settled in Connecticut. The family later migrated from Connecticut to Oneida County, N. Y., and in 1832 moved on to the Reserve, at Amherst, Ohio, and in 1847 the father moved to Cleveland. In a few years Mr. Eells married Miss Mary M. Howard, of Orwell, Ashtabula County. To this marriage came two children, Howard Parmelee Eells, born June 16, 1855, and Emma Paige Eells (now Mrs. Arthur St. John Newberry).

Howard received the best of educational advantages. He went for his preparatory work to Greylock Institute, South Williamstown, Mass. Later graduated from Hamilton College in 1876, where his father had attended as a member of the class of 1848, and in 1877 received his degree of Bachelor of Arts from Harvard University.

On his return to Cleveland, he entered the employ of the Republic Iron Company. Mr. Eells organized in 1896 The Bucyrus Steam Shovel and Dredge Company of Wisconsin, later known as the Bucyrus Company, and was for many years its president and at the time of his death was the chairman of its board. He was President of the Atchison and Eastern Bridge Company, the Dolomite Products Company, and the Howard Realty Company, a Trustee of Western Reserve University, the East End School Association, the Cleveland School of Art, Lakeview Cemetery Association, the Second Presbyterian Church, the Cleveland Humane Society, with which he was connected since 1882, serving many years as a Director and as Treasurer from 1900 till his death. He was a member of practically all the leading social clubs of Cleveland. During the years of 1909-10 he served as President of the National Metal Trades Association. He

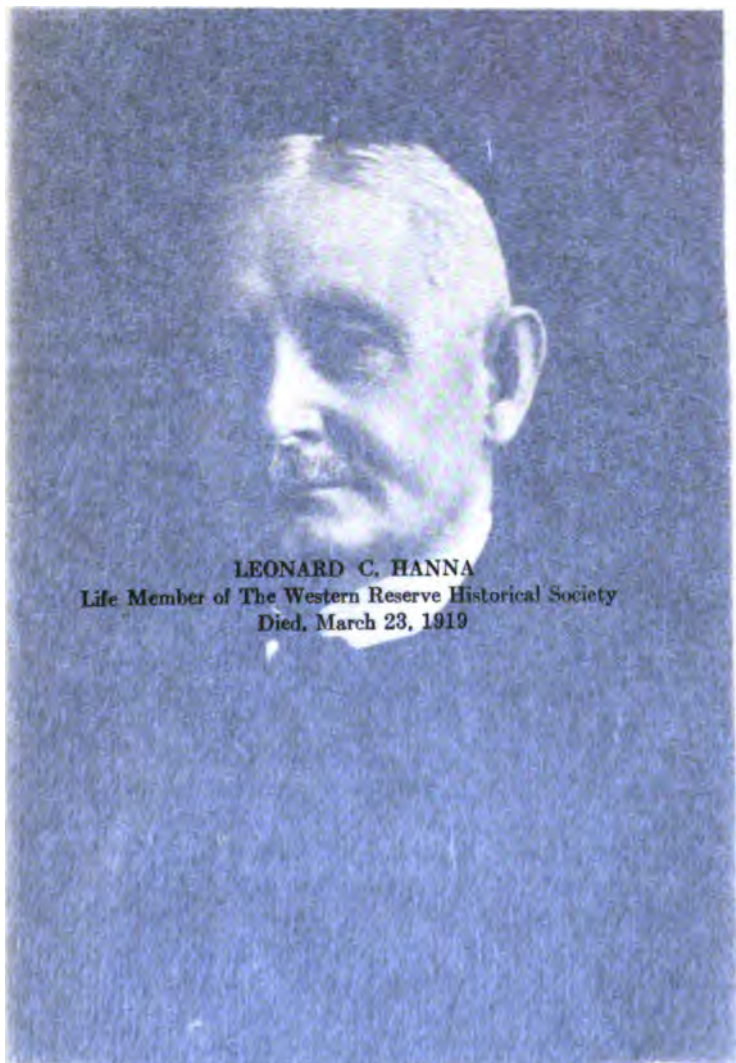
was a member of the Advisory Council and the Accessions Committee of the Cleveland Museum of Art. When one reads over the complete list of organizations with which Mr. Eells was connected, he realizes how closely he was identified with all of Cleveland's activities and that he was deeply interested in all that pertained to its educational and artistic growth.

A man of deep sympathies, broad culture, and charm of personality he won the love and the respect of all who knew him. Mr. Eells was married on April 20, 1881, to Miss Alice Maude Overton, who passed away May 26, 1885, leaving Mr. Eells with two small children, a daughter, now Mrs. Robert H. Crowell, and a son, Dan P. Eells, II. On September 9, 1889, Mr. Eells again married, this time to Miss Maud Stager, of Cleveland. To this marriage came five children, Frances, now the wife of Allan C. House, Howard P. Jr., Harriet, Samuel, and Maud. Mr. Eells is survived by his widow and all of his seven children, also by his sister, Mrs. Arthur St. John Newberry, and brother, Stillman Witt Eells, who is United States Consul at Mombasa, East Africa.

#### LEONARD C. HANNA

Leonard C. Hanna, one of Cleveland's most representative business men, equally well known in the broader business activities of this country, and a life member of our Society, passed away at his residence, 2717 Euclid Ave., Sunday morning, March 23rd, 1919.

Born in New Lisbon, Ohio, Nov. 30, 1850, the son of Dr. Leonard Cotton Hanna and Samantha Converse Hanna, he was brought when a mere boy by his parents to Cleveland, where they made their home in a small house still standing on Prospect Ave., near 22nd street. His schooling was obtained in the Public Schools of Cleveland and at Holbrook Academy, Ossining, New York. As a young man, he was interested and took an active part in athletics, playing base ball for a number of years on the Cleveland Club, then



LEONARD C. HANNA

Life Member of The Western Reserve Historical Society  
Died, March 23, 1919



the Advisory Council and the Association of the Cleveland Museum of Art. He was the complete list of organizations. Mr. Eells was connected, he realizes, with all of Cleveland's educational and artistic growth. He was deeply interested in all sympathies, broad culture, and won the love and the respect of Mr. Eells was married on April 1, 1885, to Alice Maude Overton, who passed away in 1885, leaving Mr. Eells with two children, now Mrs. Robert H. Crowell and P. Eells, II. On September 9, 1889, he was married, this time to Miss Maud Stillman. To this marriage came five children, the wife of Allan C. House, Howard, Samuel, and Maud. Mr. Eells is a widow and all of his seven children are now married. Mrs. Arthur St. John Newberry, Stillman Witt Eells, who is United States Consul at Mombasa, East Africa.

#### LEONARD C. HANNA

Leonard C. Hanna, one of Cleveland's most representative business men, equally well known in the broader business activities of this country, and a life member of our Society, passed away at his residence, 2517 Euclid Ave., Sunday morning, March 23rd, 1919.

Born in New Lisbon, Ohio, Nov. 30, 1850, the son of Dr. Leonard Cotton Hanna and Samantha Hanna, he was brought when a mere boy by his parents to Cleveland, where they made their home in a house still standing on Prospect Ave., near the city center. His schooling was obtained in the Public Schools of Cleveland and at Holbrook Academy, Ossining, New York. As a young man, he was interested in taking an active part in athletics, playing base ball for a number of years on the Cleveland Club, then





known as the "Forest Citys", which team was the predecessor of the later professional club, now known as the "Indians."

In military affairs his interest was manifested in his connection with the Gattling Gun Battery, of which he was a charter member, also was its Captain for some time.

In business he was very active, even as a young man, for soon after leaving his academy work, we find him serving as a purser on a passenger steamer plying between Cleveland and Duluth.

During the years from 1872 to '74 he was located in St. Paul, engaged in the coal business, but returned to Cleveland in 1875 and became connected in business with his brother, Marcus A. Hanna, and in 1879 became partner in the firm of M. A. Hanna & Company. Later during M. A. Hanna's activity in national politics, first as a leader, then as a senator, the brother became the acting head of the Company. But many other organizations demanded a share of his time and his great business ability.

In looking over the long list of organizations he was actively connected with, we recognize some of the strongest in Cleveland. For eight years from its organization, Mr. Hanna was the President of the Bessemer Ore Association. He was Director in the Kelley Island Lime and Transport Company; the Ohio and Western Lime Company The Lakeside and Marblehead Railway Company; The Cleveland Railway Company; The Great Lakes Towing Company; The Republic Iron and Steel Company; a Trustee of the Lakeside Hospital and the President of the Claire Furnace Company.

In 1905, on retiring from active business, he severed his connection with all excepting two corporations—The Kelley Island Lime and Transport Company, and The Cleveland Railway Company.

He was a member of many of the social and business clubs of the city.

On May 17, 1876, Mr. Hanna married Miss Fannie W. Mann of Buffalo, having two children by this marriage, Mrs. H. M. Hanna, Jr., of this city and Mrs. Paul Moore, who resides in Morristown, New Jersey. Some time after the death of his wife, Mr. Hanna again married, this time to Miss Coralie Walker of Richmond, Kentucky. One son was born to them, Leonard C. Hanna, Jr.

Although naturally of a quiet, unassuming disposition, he had the faculty of winning the friendship of those who came in contact with him. Conscientious in all his work, his advice was often sought and none more highly prized.

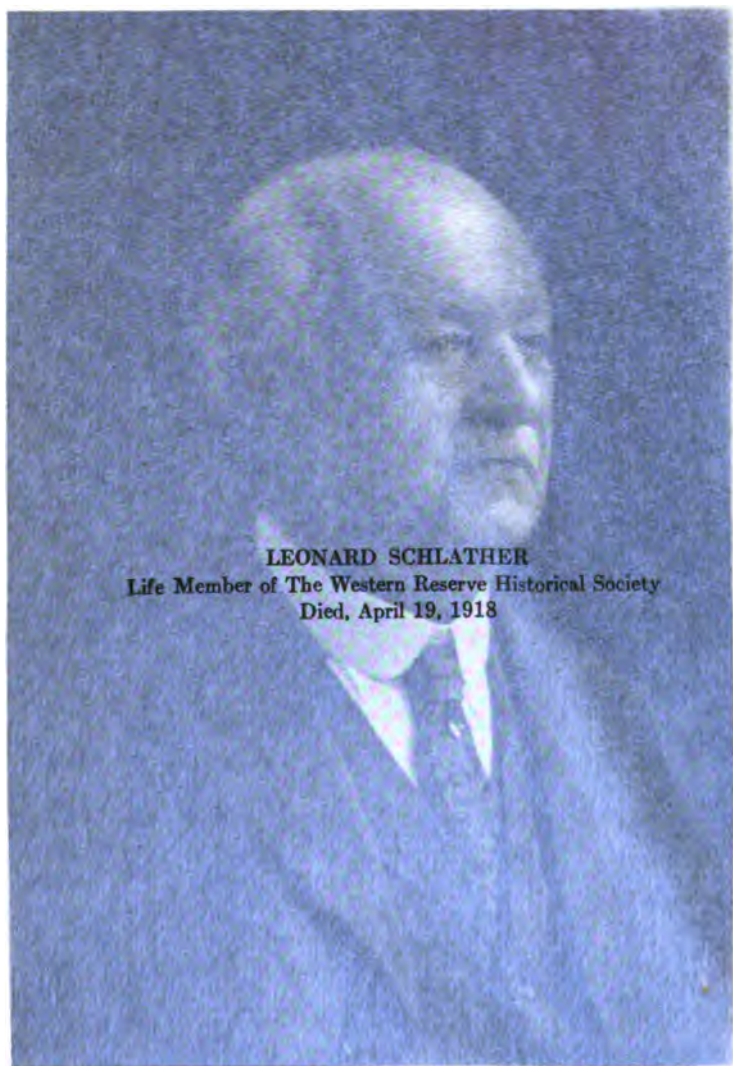
He is survived by his widow and children, two sisters, Mrs. S. Prentiss Baldwin, and Mrs. Jay C. Morse, and one brother, Mr. H. M. Hanna.

#### LEONARD SCHLATHER

Mr. Leonard Schlather, life member of the Western Reserve Historical Society, passed away on the 19th of April, 1918, at the age of nearly eighty-four years. He was of foreign extraction, having been born in Ebenhausen, Kingdom of Wuerttemberg, Germany, on June 20, 1834. Emigrating in the spring of 1852, he settled a year afterwards in the city of Cleveland, which was to become his home and the place of his extended activities. He engaged in the brewery business, laying thereby the foundation of a large fortune and thus enabling him to branch out into different industrial and commercial enterprises.

In the course of time he became a director of The Union National Bank, Vice President of the People's Savings Bank, and director in a number of various industrial establishments. As a man of great energy, fine intellect and keen foresight, he had a clear vision of the wonderful future of Cleveland, and contributed to the growth of the city in many ways.

Mr. Schlather was married about 1855 to Miss Katherine Backes. Six daughters were born to them, only one of whom is now living, Mrs. Lena Parker,



**LEONARD SCHLATHER**

**Life Member of The Western Reserve Historical Society**

**Died, April 19, 1918**



wife of Dr. Charles B. Parker. Mr. Schlather became a widower over twenty-five years ago. In 1897 he was joined in wedlock to Miss Anna K. Sophy Schwarz, daughter of the deceased Mr. and Mrs. Henry Schwarz of Wheeling, W. Va., who survives him, besides his grandchildren, Miss Helen E. Hobson, Miss Leona Wager and Mars Wager.

It is worthy of mention that to the estate of the deceased belongs a large farm on Rocky River, situated just south of Rocky River bridge. It was here that Mr. Schlather passed his hours of leisure in the contemplation of nature and in the society of the great minds of all times and all nations. He was largely instrumental in the erection of Goethe-Schiller monument in Wade Park and the Richard Wagner statue at Edgewater Park. A tour around the earth and extensive travels in many lands thereon had given him a thorough understanding of humanity and a cosmopolitan knowledge. It was, too, this comprehension that made him a true and loyal American citizen, which also means a liberal contributor towards the welfare work of a man's home town. The hospitals of Cleveland, the benevolent institutions and charities had a helpful friend in him, though he never let his left hand know what his right hand was doing. The modesty of his character was remarkable as to its strength. Taken all in all, he was a man of strong character.

### PUBLICATIONS

Two publications were issued by the Society during the year—the Transactions of the Society, No. 98, issued in September, which embraced the reports of the Organization, Necrology, etc., and in January, as publication No. 99, "The Movement for Peace without a Victory During the Civil War," by Prof. Elbert J. Benton. Many letters were received expressing appreciation for Dr. Benton's painstaking piece of work, presenting, as it did largely, new deductions on this very important phase of American history. We owe



much to Dr. Benton for the time and thought he put into this production.

The coming year's publications will embrace the reports of the Society, which will be issued as promptly as possible after the annual meeting, and in the Collections of the Society, will be published—"The Western Reserve and the Fugitive Slave Law," an exhaustive publication on a subject that we have no doubt will prove of great interest to our members. This publication has been prepared by Mr. W. C. Cochran, of Cincinnati, and will be published during the winter.

### TRIPS

Owing to the smallness of our force and the pressure of work, our collecting trips have been confined to two or three during the year, although a number of short ones were made by automobile to nearby towns, such as Elyria, Akron, and Ravenna. At the last named place we obtained the material from Mrs. Beebe.

In one trip to Granville a large case of material from Mrs. Geo. E. Stevens was obtained. Then a trip of three or four days to Steubenville, Mt. Pleasant, and Cadiz brought in splendid returns.

The only extended trip during the year was one made in the late spring to the east, stopping at Philadelphia, New York, New Haven, Boston, Salem, Worcester, the Shakers at Mt. Lebanon, and Albany. At each stop all available societies and libraries were visited and the gift sheet will show the results obtained.

We have been going over the different lots resulting from this trip as they have come in, and we feel inclined to think they are equal to and probably larger than from any one previously made.

There are a number of places in the state that we are planning to go to at the earliest possible moment.

### LIBRARY

The library and the various other collections of the Society, even in the face of the war and the curtail-

ments involved thereby, have shown very satisfactory accessions.

We have added some 3164 volumes and 4848 pamphlets, besides increasing the other collections, such as manuscripts, maps, broadsides, newspapers, etc., which are enumerated in other parts of this report.

### MANUSCRIPTS

A valuable and interesting addition to our collection of papers pertaining to the Ohio Land Company has been received by gift from Mr. Kenyon V. Painter. It is a folio manuscript of four pages, entitled "To the King's Most Excellent Majesty in Council The Humble Petition of the Ohio Company," beseeching a larger grant of land in consideration for which the Company offers to increase the number of families from 100 to 300, which they had agreed in their first contract of 1744 to send out to occupy the land, and also the agreement to erect two forts one at Shurlee's Creek and the other at the Fork where the Great Conhaway enters the Ohio, said forts to be maintained at the Company's expense.

Mr. Ambrose Swasey. 59 pieces of manuscript material bearing on early Baptist History.

Mr. W. C. Talmage. A rather unusual gift in the History of First Methodist Church of Cleveland, representing months of correspondence and diligent research in bringing it together. Mr. Talmage has gathered photographs, documents, deeds, etc., all pertaining to this church and has had them bound and placed in a specially made tin box for preservation.

It would be of great value if some member of the other churches of Cleveland would follow this example. A number of our churches are fast approaching their one hundredth anniversary, and if records could be obtained they would be of great aid in the future.

Mrs. Geo. E. Stevens. Records of the Western Baptist Education Society from 1834-1845.

Miss Lillie Jenkins. Records of the Annual Meetings of the Free Produce Association of Friends of Ohio, consisting of several volumes. School Register of Mt. Pleasant High School, 1843-49. Roll of Mt. Pleasant District School, 1839-40.

By purchase. A record of the deaths in Middlebury, County of New Haven, Connecticut, 1815.

Mrs Fannie A. Bissell. Rev. Samuel Bissell's Day Books from 1825-1875, 6 volumes. Yale College diploma issued to Samuel Bissell, who, later, became President of the Twinsburg Institute.

Mrs. E. Boley. Letter received via the first trip of the Air Mail Service, May 15, 1918.

Rev. R. T. Cross. Three sermons preached in Twinsburg, Nov. 1834, by Rev. Samuel Bissell.

Dr. H. K. Cushing Estate. Franklin Letters consisting of two written by Benjamin Franklin, and one from Franklin's grandson.

Miss Alice Hussey. Grant of Land to Horace Potter, signed by the President, James Madison, in 1815.

Mr. Hosea Paul. Manuscript of Memorandum of the Plank Road and Turnpike Companies in Cuyahoga County, taken from County Commissioners' Records, April 3, 1918.

Mr. and Mrs. Frank R. Scofield. Interesting collection of early Cleveland material—invitations, announcements, etc.

Mr. Frank F. Starr. Three papers relating to the early days of Ohio.

Miss Wells. Original plan of Steubenville (1796). Contract between James Ross and Bezbl Wells for land purchased and for sale by them jointly at Steubenville.

Two commissions issued to Bezbl Wells by Winthrop Sargent, dated July, 1797. List of Sales of lots in Steubenville, 1796-1803.

Mrs. W. H. Beebe. Stage Office Record book, Ravenna, 1833-5. Class Record of M. E. Church, Ravenna, 1857-8. Records of the Court Temperance Society, Ravenna, O., 1838.

Mrs. E. J. Donaldson. Select School Book, 1831, containing list of students in Steubenville Seminary, 1829-31.

Mr. Norman E. Hills. Result of the City elections of Cleveland for March, 1841.

Mr. P. H. Kaiser. A Half Century in Cleveland, by Peter Henry Kaiser.

Mr. J. R. Nutt. From the estate of General J. J. Elwell, a large collection of Clara Barton's correspondence with General Elwell.

Mrs. Scott Robinson. Fifteen manuscripts—deeds, etc.

Mr. A. Sperry. Manuscript book of telegrams addressed to Secretary of War Seddon, of the Confederate States Army. A collection of manuscript records of the Confederacy, captured by the Union soldiers at the close of the war, including account books, various letters, reports of the Order department, etc. The Diary kept by Ambrose C. Hinds, of the last six months of service of Company D, First Regiment, O. V. L. A., from January to June, 1865.

These old diaries, when carefully kept are of great value to the historian, and our Society is gradually forming a very good collection of them.

A number of years ago some twenty-five of the Civil War diaries were received from General Barnett's estate. Many came in the William P. Palmer Collection and a large number have been received from time to time, from individuals.

To the Wm. P. Palmer Collection a considerable number of manuscripts have been added, including several Rosters and Payrolls of the Confederate States Navy, and letters and correspondence largely on the Confederate side. Also the original record book of the Morgan Raid Commission which was in session from April 4th to Oct. 22nd, 1867, in Indiana.

The collection of Shaker manuscripts has received some very interesting and valuable additions. The Society should feel very grateful that this important Christian communistic organization has made it the depository of so much of its history, and quite wisely, for they recognize that if it is scattered, the historic value is greatly lost as one branch of it is so intermin-

gled with another that it must be considered as a whole and hence the importance of having it gathered in one place.

Your Director outside of office hours is compiling from all records available, a complete card index of the Shakers in all the different Families from the first, giving as complete genealogical data as well as the various offices held in their respective organization. This will enable him to answer letters accurately and quickly which are received frequently asking about this one or that one among the Shakers.

From Mr. F. F. Prentiss the Society has received several valuable donations including an interesting letter from Marietta, dated Jan. 2, 1789, bearing on Ohio lands. Also

Wheeler, Amos, Journal of a Tour to Ohio and from Ohio to Missouri, May 21st to July 8th, 1816. An interesting early journal written in bright literary style, giving sketches of Fort Duquesne, Pittsburgh, Steubenville, Marietta, Blennerhassett Island, Little Miami and the Fort, Military lands, etc. Mr. Wheeler was a native of Stonington, Connecticut, and served on the privateer "Yankee," which captured a number of British boats during the War of 1812.

#### BROADSIDES

To our collection of Broad sides we have added several outside of the large number that has been issued in connection with the activities of the late war.

Through the courtesy of the Massachusetts Historical Society, we have been included in a small circle of libraries who will be given the opportunity to select from their photostat reproductions of American and English Political Broad sides. Many of these early historical Broad sides can only be obtained at extravagant prices and the reproductions will prove of great aid to our students.

Thus far we have received from this source sixty Broadsides.

Several broadsides have come to the Society in both the Palmer and Prentiss collections.

Mr. C. S. Brigham. Five Civil War posters.

Mrs. W. H. Beebe. Fifteen Ohio broadsides.

Mrs. Whirl. A copy of the Declaration of Independence.

#### ATLASES AND MAPS

Several interesting gifts have been made to this division of our library. We mention the following:

The Bank of Commerce. Rand McNally & Co.'s Commercial Atlas of America, 1911.

Mr. W. G. Dietz. Geological Atlas of the State of Ohio, by J. S. Newberry, et al, 1879.

Mr. J. W. Simpson. Atlas of Cuyahoga County, Ohio. Phila. 1874.

Yale University. A Comprehensive Atlas, Geographical, Historical and Commercial, by T. G. Bradford.

A new General Atlas Representing the Grand Divisions of the Globe. Philadelphia, 1824.

Modern Atlas adapted to Morse's New School Geography. Richardson and Lord. Boston; 1822.

Atlas of the World from the best authorities.

Bradley's Atlas of the World, Phila. 1890.

Mr. J. W. Larwill. Bradley's Atlas of the World.

Mrs. W. H. Beebe. Three maps.

Mr. C. W. Bingham. Map of the City of Cleveland in 1852. By Slatter & Callan. Map of Mercer County, Penna., from surveys of G. M. Hopkins; 1860. Map of Cuyahoga County from surveys of Mr. Hopkins, 1858. Map of Cuyahoga County. Harris B. Blackmore; 1852. Map of the United States by J. H. Young, 1831. Mitchell's Reference and Distance Map of the U. S., 1835. Colton's Township map of the State of Ohio, 1851.

Mr Chas. E. Dinkey. Four maps of the Braddock battlefields.

Miss Lyman. Map of Western Reserve including the Fire Lands. By Taylor & Co., Pittsburgh, 1844.

Estate of Sarah K. Ranney. Early map of Cuyahoga County, Ohio

Mr. A. Sperry. Manuscript map of the vicinity of Petersburg made by Maj. Gen. J. E. Gilmer. Manuscript map of a part of the South side of the James River, under the direction of Major Campbell; 1864.

Mr. Wm. P. Palmer. Map of Pittsburgh and vicinity in 1834.

Mr. E. S. Loomis. Map of Cleveland in 1835.

Miss Wells. Survey and Map of land in Augusta County, Virginia, Jan. 15, 1775. Original map of Gray's addition to Steubenville, layed out by Jas. Gray, April 12, 1814.

Mr. Elroy M. Avery. Ten maps.

From the F. F. Prentiss Fund we have purchased:

Everts. Combination Atlas of Greene County. Chicago, 1874.

Riddle. Atlas of Greene County. Xenia, 1896.

Stewart. Combination Atlas of Logan County. Phila. 1875.

Finley. Atlas of Trumbull County. 1899.

Atlas of Stark County. 1875.

Evert. Combination Atlas of Warren County. 1875.

Geauga County Atlas. Cleveland, 1900.

Lake County Atlas. Cleveland, 1898.

Finley's Map of Ohio, 1834.

Burr's Map of Ohio, 1839.

Colton's Map of Ohio, 1854.

Ranney's Map of Ohio, 1859.

A very early manuscript map of Cleveland, probably contemporaneous with its first settlement.

### NEWSPAPERS

The newspaper collection has received good accessions this year. We note the constantly increasing use and demands for them.

On exchange the following:

*Dunlap's Pennsylvania Packet*, or the *General Advertiser*, Philadelphia, Pa., Dec. 28, 1772. Dec. 20, 1773.

*New York Packet* and the *American Advertiser*, Jan. 10, 24, Feb. 14, 21, 28, March 28, May 2, 23, June 6, 13, 20, 27, July 11, 18, Aug. 1, 22, Sept. 12, Oct. 31, Nov. 7, 14, 1782.

*New England Palladium & Commercial Advertiser*, 1820, from April 4 to June 16th.

*The Connecticut Courant*, Hartford, 1799, Feb. 4th to end of the year.

*Connecticut Herald*, New Haven, 1804, Dec. 4, 11, 18, 24, 31. 1805, January 8 to end of the year, lacking 5 nos., 1806, Jan. 7 to Oct. 21.

*Gazette of the U. S.*, New York and Philadelphia, 1789, Sept. 26, Oct. 14, April 14, 1790 to April 27, 1791.

*The Connecticut Journal*, New Haven, Sept. 19, 1798, Dec. 10, 1783.

*Massachusetts Centinel*, Boston, Oct. 30, 1784, November 13, 1784, Jan. 1st to March 19, 1785, lacking 3 nos.

*Columbian Centinel*, Boston, July 21, 1790, to March 12, 1791, lacking 2 nos. 1802—1 no. 1812, all except 4 nos. 1815, all but 2 nos. 1817, 89 nos. 1819, 92 nos.

*Boston Gazette*, 1806, 82 nos.

*The New York Gazette or General Advertiser*, Nov. 24, 1768. Oct. 7, 1773.

*New York Evening Post*, April 4, July 9, 1816.

*Dunlap and Claypoole's American Daily Advertiser*, Phila., 1793 and 1794—31 numbers. (Making 877 newspapers in all.)

Adelbert College. *The New York Times* for 1915, 1916, 1917 and 1918.

Adelbert College. On permanent deposit as follows: *Boston Gazette*, Boston, V. 13-15; Jan. 1803—December 1803. *Boston Patriot*. Boston, V. 1-8; March 1809—March 1813. *Chicago Daily News*, Chicago. V. 11-15, Oct. 1885—April 1891. *Cincinnati Journal & Western Seminary*, Cincinnati. V. 9-11; 1836-38. *Cincinnati Herald & Gazette*, Cleveland. V. 20-25. *College Courant*, New Haven, Yale College. V. 4-7; July 1868—Dec. 1870. *Columbian Centinel*. *Massachusetts Federalist*, Boston. V. 36-41, 44-45. June 1802—Dec. 1807. January 1810—Dec. 1811. *Daily Graphic*, New York. V. 2-22, 40-46; August 1873—April 1880; March 1886—June 1888. *Independent*, New York. V. 2-3, August 1850—December 1851. *Independent Chronicle and Universal Advertiser*, Boston. V. 27-28, 33-36, September 1795—December 1797; January 1801—March 1804. *Inter Ocean*,



Chicago. V. 1-15; March 1872—August 1886. *National Era*, Washington. V. 1-4; 1847-52. *New England Palladium & Commercial Advertiser*, Boston. V. 17-22, 30-44, 64-68; January 1801—December 1803; January 1808—December 1819; January 1827—August 1828. *New York Evangelist*, New York. V. 10-23; January 1839—December 1852. *New York Observer*, New York. V. 1-25; January 1829—December 1847. *New York Spectator*, New York. V. 1, 9-26, 33-36, 39-40; January—December 1798, June 1806—December 1823, January 1830—July 1833, January 1836—December 1840. *Ohio Observer*, Cleveland and Hudson. V. 1-28, July 1827—December 1854. (Total 146 volumes).

*The Christian Standard*, 1874-1882.

*The Portage County Republican*, 1879-83.

Miss Folliart. *The New York Times* for 1918-19.

Mrs. Askue. Continuation of her gift of last year of the *Connecticut Valley Advertiser*, containing History of East Haddam.

Mrs. W. H. Beebe. 2 copies, *Sober Second Thought*, Polk Campaign, 1844; 1 copy *The Castigator*, Van Buren Campaign, 1840; 1 copy *Human Sacrifice*, Vol. 1, No. 1 (Slavery underground); 2 copies *True American*, Cuyahoga Falls; 4 copies *Ohio Review*; 19 copies *The State*, Cleveland, Ohio, 1879; 1 copy *Democratic Rasp*, Newark, 1840; 2 copies, *Hickory Flail*, Ravenna, 1855; 1 volume, *The Star in the West*, Cincinnati, 1878-79. 170 miscellaneous papers.

Mr. Rutherford Burgher. "Our Idle Times," 1876-77. (Juvenile Collection.) This paper our President, Mr. Palmer, was one of the editors of.

Mr. Horace G. Canfield. *The American Democrat*, Vol. 1, No. 1—Aug. 10, 1842 to Aug. 9, 1843.

*The Cleveland Plain Dealer*. Bound volumes for 1918-19.

*The Cleveland Press*. Bound volumes for 1918-19.

*The Cleveland Sunday Leader*. Bound volumes for 1918-19.

*The Cleveland News*. Bound volumes for 1918-19.

The Lawrence Publishing Co. *The Ohio Farmer*, bound volume for 1918.

*The Western Reserve Democrat*. Bound volume for 1918.

Dr. H. K. Cushing Estate. *The Pittsfield Sun*, 1800-25, 65 nos. *The Providence Gazette*, 1796-1800, 22 nos. *The Western Star*, Stockbridge, Mass., 1797-1803, 7 nos. Collection of early Massachusetts and other papers, 15 nos.

Mr. J. J. Fraser. *The Ohio Congregational News* from Jan. 1918 on.

Mr. J. S. Lane. "*The Buzzard*," Akron, Ohio, 1837-8.

Mrs. C. B. McLean. *The New York Mirror*, 1831, 32, 33, 36, 37, 38, 6 vols. *The Albion*, 1836-1839, 4 vols. *The Genesee Farmer and Gardener's Journal*, 1832, Vol. 11.

Mr. E. S. Peck. *The Cincinnati Chronicle and Literary Gazette*, March 20, 1830.

Rev. Elmo Arnold Robinson. *The Convention Circular*, 1889 to 1915. The official newspaper of the Universalists of the State of Ohio.

Mr. Geo. J. Schwartz, *The Cleveland Morning Leader*, Oct. 22, Nov. 6, Dec. 12, 1860, Nov. 19, 1862.

Mr. J. W. Simpson. *The Cincinnati Daily Unionist*, Dec. 24, 1853—March 13, 1854. *The Holmes County Republican*, Millersburg, O., May 8, 1862—April 20, 1865. *The Oberlin Evangelist* for 1845.

Mr. W. A. C. Smith. *The Daily Clevelander*, July 15, August 14, 1856.

Mrs. G. E. Stevens. Vols. 1 & 2 of *The Macedonian*, Cincinnati, O., 1843-45. *The Delaware Gazette*, Jan. 3, 1821.

"*The Waechter und Anzeiger*," 5 volumes, Jan. 1917—March, 1918.

*Genius of Universal Emancipation*. April 1830-1831, Vol. 1, 3rd series.

Mr. J. W. Larwill. *The Balance & Columbian Repository*, Vol. 3 and 5, 1804-5.

Mr. W. H. Cathcart. Files of the *Vineyard Gazette*, 1893 and 1894. *The Inquirer and Mirror*, 1893 and 1894.

Mr. E. S. Loomis. *The Statesman*, Vols. 1, 2, 3, 6-7.

By Purchase. *The Hamilton Intelligencer and Advertiser*, 1821-25. *The National Anti-Slavery Standard*, 1840-42; *The National Republican and Ohio Political Register*, 1823-25; Photostat copies of *The Boston News Letter* for 1704, 5, 6, 7, 8; 1730, 31, 32. Photostat copies of the *New York Gazette* for

1725-1727; *The Norfolk Repository*, Dedham, Mass., 1805-6. About 1000 miscellaneous Ohio papers.

Last year we called attention to the fact that we had added on our Southern trip to the Wm. P. Palmer Collection on the Civil War a large number of Confederate newspapers, the greater part of which came in before last year's report. The few that have come in since, are included in this report. This year there has been added to this Collection, of the Southern papers issued during the Civil War period, over 900 issues, a number of the Northern newspapers for the same period, and *The Colored American*, New York, 1838-41.

Through the F. F. Prentiss fund a number of volumes of early Ohio newspapers and periodicals have been obtained.

*The Steubenville Herald* for 1806, '07 and '08, the only continuous run known to have been saved; in fact probably only an odd number or two could be found in any of our libraries. This paper was later owned and edited by President Woodrow Wilson's grandfather, and as a young man, President Wilson's father and uncles worked at typesetting on the same paper.

*The Chillicothean* for 1826, 1827 and 1828. *The Ashland Union*, 1850-51. *The Western Messenger*, Cincinnati, 1835-41. *The Ohio Gazette*, Marietta, Ohio, 1808, five numbers. *The Ohio Valley Farmer*, Cincinnati, Ohio, Vol. 1, 1856-7. *The Weekly Recorder*, Chillicothe, Vols. 1-7, 1814-21. This is said to be one of the earliest papers published, devoted to religious literature in America. *The Rose of the Valley*, Vol. 1, Cincinnati, 1839. Critchfield, A. *The Northern Reformer*, Vol. 1, 1837, published at Middleburg, Ohio. *Western Garland and Peoples Magazine*, Vol. 1, Cincinnati, 1846. *Western Peacemaker*, Vol. 1, Oxford, Ohio, 1839. *Western Literary Journal and Monthly Review*, Vol. 1, 1845. *Western Medical and Physical Journal*, edited by Daniel Drake, Vols. 1-3, Cincinnati, 1827. *Ohio Miscellaneous Museum*, Vol. 1, Lebanon, Ohio, 1822. *Illinois Monthly*

*Magazine*, 1831, 1832, the predecessor of the *Western Monthly Magazine*, published in Cincinnati by James Hall. *The Religious Examiner*, Vol. 5, 1832, Washington, Ohio. *The Evangelical Union*, edited by Elisha Bates, Mt. Pleasant, 1845-46.

### WAR LITERATURE

Publications received on the war have been so varied and extensive we can only mention a portion in this report.

Mr. Ralph King. Complete set of "*L'Illustration*" from the commencement of the War in 1914 down to date. This is one of the most completely illustrated of the French periodicals bearing on the war. Many numbers went out of print and had to be reprinted. This is a most welcome addition.

The American Hellenic Society. Persecution of the Greeks in Turkey before and since the beginning of the War—Publications 5, 6, 7. Hellenism in Asia Minor. Pub. No. 4. Greece and Tomorrow by Z. D. Ferriman.

The American Red Cross, Lake Division Headquarters. *The Lake Division News*. Also a set of their posters and other material.

Lithuanian National Council. A full set of their publication.

The U. S. Shipping Board. File of the Emergency Fleet News. Also set of the Bulletins. Complete set of the Official Posters.

Mr. Ralph Bell. War Letter published by the Western Reserve Chapter of Delta Upsilon, June 1, 1918.

Mr. N. H. Boynton, by courtesy of the Publicity Division of the Cleveland War Council. Portfolio containing all the posters, advertising matter, etc., put out for the War Fund Campaign in June, 1918.

Camp Dix. File of *Camp Dix Times*.

Also have received most of the "*Trench and Camp*" and other camp papers issued at the various camps in the United States as well as those issued in France and Italy.

Mrs. Levi J. Burgess. *The Great War*, By Katharine Stanberry Burgess.

Department of Secretary of State of Canada. Set of their Proclamations, Orders in Council, and Documents relating to the European War.

Mr. Cyrus S. Eaton. Collection of Posters pertaining to the United War Work Campaign.

Mrs. E. L. Harris. Collection of miscellaneous papers on women's work, etc., connected with the War.

McKinley Publishing Company. Collected materials for the Study of the War, compiled by Albert E. McKinley. War Reprint Nos. 1-6. Supplements to the History Teacher's Magazine.

Mrs. J. R. McQuigg. The Sentinel's Hand Book, by Major J. R. McQuigg.

Major Otto Miller. A collection of Memorandum Orders, Reports, Circulars, etc. Headquarters 37th Division, Camp Sheridan, Montgomery, Ala.

Col. John P. Nicholson. Collection of General Orders, Naval Instructions, etc., 1918.

Mr. Wm. Thompson. The Common Cause, Britain's Part in the Great War.

U. S. Army Recruiting Station, San Francisco, Cal. Collection of Posters.

*New York Times* History of the War—15 volumes purchased

*New York Times Midweek Pictorial*—8 volumes purchased.

*The Times History of the War, London*—16 volumes purchased.

War Department—Set of General Orders, Bulletins, etc. 1917-1918.

Miss Annette P. Ward. A collection of miscellaneous papers pertaining to the war.

Adelbert College. 23 pamphlets pertaining to the War.

Mr. James Parmelee. Four British War Posters issued by the British Government in a limited edition of 100 each. The list includes: Print No. 60 by Maurice Griffenhagen; Print No. 56 by C. Ricketts; Print No. 66 by Charles Shannon; Print No. 62 by Edmund Dulac.

It may be known by many of our readers that Mr. Shannon is one of the foremost portrait painters of London. Mr. Dulac, although a Frenchman, makes

his home in London, and has been known as a charming painter, and some of our finest books have been illustrated after his drawings and paintings.

Messrs. Shannon and Ricketts collaborated in their designs as one can readily see upon a cursory examination of their two Posters. A very few of these posters reached America as they were eagerly bought up in England, and we are very fortunate in having a generous friend to send them to us.

### SPECIAL FUNDS

For several years a few friends of the Society have expressed their willingness to finance purchases along certain designated lines. Too much appreciation cannot be expressed for this generous help, for it is helping to round out and increase collections already started which could not be done if we had to depend solely on our small endowment.

#### WILLIAM McLAUCHLAN FUND

Last year at the close of the annual meeting after listening to the appeal made for funds to purchase books bearing on the history of the separate states, Mr. McLauchlan presented the Society with a fund for the purchase of books on one of the Eastern States and as he expressed the preference that the state be Maine (much to our satisfaction), the fund was devoted to procuring local histories of that State. Some forty books were obtained and it is hoped that this fund, as it may come in from time to time, will add largely to our collection of Maine history.

#### F. F. PRENTISS COLLECTION ON OHIO

From the funds furnished by Mr. F. F. Prentiss for the purchase of Ohio books, some 300 volumes and pamphlets have been added to the library, bearing directly on Ohio History. Some of the volumes are exceedingly rare and for which the Society has been searching many years. Without this fund many items

that have been offered to us, would have gone to libraries and collections outside of Ohio. We feel it is highly advantageous to be able to obtain all such material when the opportunity presents itself and Mr. Prentiss' continued assistance has proved a tower of strength in this particular field.

We have added, by means of this fund, to our collection of Ohio County Histories, the following:

*History of Ross County, 2 volumes.*

*History of Hanging Rock Iron Region of Ohio, 2 Volumes.*

*History of Greene County, Xenia, 1908.*

*Memoirs of the Lower Ohio Valley, 2 volumes.*

*Robinson's History of Greene County, Chicago, 1902.*

*Centennial History of Butler County, 1905.*

*Genealogical and Family History of Eastern Ohio.*

*Lorain County History, 1916, 2 volumes.*

*Bahmer's Centennial History of Coshocton County, 2 volumes.*

*Stark County and its Pioneers, 1876.*

*Memorial Record of the Counties of Delaware, Union, and Morrow.*

*Hopley's Crawford Co. History, Chicago, 1912.*

*History of Clermont County, Philadelphia, 1880.*

Among the rarer items obtained we note:

Mitchell, Joseph, *The Missionary Pioneer*, N. Y., 1827. This rare volume of which we know of only a few copies (some four in all) being in existence, is an interesting record of the formation of the Wyandot Mission at Upper Sandusky.

Records of Miami University, Oxford, Ohio, consisting of the Laws and Ordinances of the University for 1814; Report of the President and Trustees, 1815, and some seven other items. This volume from the library of Mr. McBride, the first Secretary of the University, is quite unique.

A Scrap-book, containing the history of, and many local items about Waynesville, Ohio.

The "Second Journal of Charles Frederick Post," printed in London, 1759. The first Journal of Post

we have in a very rare little volume called "Thomson's Enquiry into the causes of the Alienation of the Delaware and Shawnee Indians." This second journal, which we are fortunate in now having, is the record of a journey, the result of which was of vital importance to Ohio History. Post had long been known to the Indians, and in his journal he narrates with simplicity the fatigues and hazards he underwent. He was a German, a Moravian, coming from Germany to Pennsylvania in 1742. He was persuaded while at Bethlehem headquarters to carry a message to the Western Indians and afterward attempted to convert the Indians in Ohio. He took up his abode, about the year 1762, in Tuscarora Town, but failed in establishing a mission at that place. Field, the renowned authority and collector on the history of the American Indian, in speaking of the second journal says—"Since the days of Regulus, no more perilous mission has been undertaken by a single man. Braddock had been defeated and eight hundred white soldiers slain. Forbes was preparing for his invasion of the Indian territory. At every step through the wilderness the most appalling dangers surrounded him. A hundred times were savage arms raised to destroy him, and a hundred times by little less than miracles the blows were averted. It is impossible to exaggerate the importance of the work he accomplished. By his persuasion he detached the Ohio Indians from the French interest and the Empire of that nation in the West fell."

Andrew Miller's New States and Territories printed for emigrants and others intending to visit the Western country, 1819. This is exceedingly rare and an item we have sought for some time.

#### THE WILLIAM P. PALMER COLLECTION

The collection of books and pamphlets on the Civil War has grown considerably this year by gift and purchase.



Mr. Palmer has presented to this collection, 73 volumes and 305 pamphlets in addition to the newspapers and other material mentioned elsewhere in the report. There have been many circulars, small pamphlets, and broadsides added that we cannot easily enumerate. All of them are important and helpful in filling in many gaps. A number of regimental histories have been secured, although the ones that we are lacking are quite difficult to find as they were issued in small editions and scattered amongst the veterans in a local way.

The books of the Confederate States, on account of their rarity, stand out perhaps most interestingly in the collection, and there have been a number of valuable items obtained along this line some of which we list:

*Message of Jefferson Davis, Nov. 18, 1861.*

*Regulations for the Army of the Confederate States, 1864, Richmond, 1864.*

Scott, John. *Letters to an Officer in the army proposing Constitutional Reform.* Richmond, 1864.

*Constitution of the Confederate States of America adopted March 11, 1861. Milledgeville, 1861.*

Moore, S. McD. *Speech on Federal Relations.* Feb. 24, 1861.

Goggin, William L. *Speech on Federal Relations.* Feb. 26 & 27, 1861.

*Regulations for the Subsistence Department of the Confederate States.* Richmond, 1862.

*Ordinances and Resolutions passed by the State Convention of North Carolina, at the First Session in May and June, 1861. Raleigh, 1862.*

Jones, J. B. *Wild Western Scenes.* Richmond, 1863.

*An Act for the Prevention and Repression of Outrages in Violation of the Peace on the Frontier of this Province, and for other Purposes.*

*Confederate Report at Fort Gaines, 1862.*

Jackson, H. W. R. *Historical Register and Confederate Assistant to National Independence.* Augusta, Ga. 1862.

*Constitution of the State of North Carolina, together with the Ordinances and Resolutions of the Constitutional Convention.* Raleigh, 1868.

*Southern Field and Fireside,* Augusta, Ga. 1864

*South Carolina. Message No. 1 of His Excellency F. W. Pickens to the Legislature at the extra session of November, 1861.* Columbia, 1861.

Gordon, Hon. G. A. *Speech delivered before the Senate of Georgia, Dec. 9, 1862.*

*An Act for the Relief of Families of Soldiers and Sailors of Virginia within the lines of the enemy.* 1864.

Sterling, Richard, and Campbell, J. D. *Our Own First Reader, 2d ed.* Greensboro, N. C. 1863.

*Constitution of the State of Virginia,* Alexandria, 1864.

#### GENEALOGIES

The interest in our Genealogical work is continuing to increase and each added Genealogy is eagerly perused by those interested in this line of research.

The following have been added:

Mr. Alex. W. Acheson. *The Acheson family reaching back to 1464.* Typewritten.

Mr. Frank Wesley Alden. *The Alden Genealogy, 1620-1909,* by Frank Wesley Alden.

Miss J. M. Ames. *Genealogy of the Steed Family of Utah from 1850-1916.*

Mr. Van W. Anderson. *Monograph of the Anderson, Clark, Marshall and McArthur Connection.*

Mr. Thomas Willing Balch. *Balch Genealogica* by Thomas Willing Balch. Phila. 1907.

Mr. Alwyn Ball, Jr. *Recollections of the Ball family of South Carolina and the Comingtee Plantation,* by Anne Simons Deas.

Rev. Newton W. Bates. *Ancestors and Descendants of Asa Bates,* by Newton W. Bates. *Genealogy of the Whitmarsh Family.* Revised ed. Also *Genealogy of the Whitmarsh Family.* original ed., Newton W. Bates.

Mr. A. S. Chisholm. *Copy of the Gregory Stone Genealogy,* by J. Gardner Bartlett.

Mr. Milo Custer. *The Dickey Genealogy*, by J. Dickey Templeton. *Beeler Biography and Genealogy*, by Milo Custer.

Prof. S. C. Derby. *Darby-Derby. John Darby of Marblehead, Mass., and his Descendants* by Prof. Derby.

Judge Elbert H. Gary. *The Gary Genealogy* by Lawrence Brainerd, Boston, 1918.

Dr. W. H. Haughey. *History of the Haughey and Allied Families*. Compiled by Dr. Wm. Henry Haughey and Dr. Wilfrid Haughey.

Dr. N. W. Jipson. *History and Genealogy of the Descendants of John Jepson of England and Boston, 1610-1917*, by N. W. Jipson.

Mr. Daniel Kent. *The Royal Ancestry of Daniel Kent of Worcester, Mass.* Chart.

Mr. Henry Ames Kimball. *The John Elliot Family of Boscawen, New Hampshire*, by Henry Ames Kimball, 1905-13.

Mr. J. Granville Leach. *John Redington of Topsfield, Mass., with Notes on the Wales Family*, by Cornelia M. Redington Carter. *Some Account of the Three Family*. Ed. by J. G. Leach.

Mr. F. C. Osborn. *Genealogical Record of a section of the Paine Family*, (Typewritten copy.)

Mr. H. E. Ravenel. *Ravenel Records*, By Henry Edmund Ravenel.

The Reynolds Family Association. *The 26th and 27th Annual Reunions, 1620-1918*.

Mr. Nelson O. Rhodes. *Genealogical Charts—The Brown-Moulthrop Families*.

Mr. John D. Rockefeller. *The Transactions of the Rockefeller Family Association, 1910-1914, with Genealogy*, by Henry Oscar Rockefeller, 1915.

Mrs. Thos. L. Ross. *A History of the Wm. Dean Family of Cornwall, Conn.*

Mr. Henry Stoddard Ruggles. *Evidence of the Derivation of the Ruggles Families of England and America, from that of Ruggeley of Staffordshire*.

Elroy M. Avery. *A number of Groton-Avery Genealogies*.

Mr. F. F. Prentiss. *The Family Records of Bartholomew Brown*, in manuscript.

By Exchange. *The Adams Family of Kingston, Mass.*, by George Adams, Boston, 1861.

*Allen Family of Medfield, Sketches of*, by Joseph Allen; Boston, 1869.

*Allen, Lewis, of Watertown Farms (Weston), Mass., 1665, and his Descendants*, by Allen H. Bent, Boston, 1900.

*Ammidown Family, Memorial and Family Record of*, by Holmes Ammidown, New York, 1877.

Angell, Thomas, *Genealogy of the Descendants of*, by A. F. Angell, Providence, 1872.

*The Axtell Record*, by Ephraim S. Axtell, Morristown, N. J., 1886.

*Amory, The Descendants of Hugh*, by Gertrude E. Meredith, London, 1901.

*Babcock Genealogy*, compiled by Stephen Babcock, New York, 1903.

*Balch Families in America*, by Galusha B. Balch, Yonkers, N. Y., 1897.

*Barber Genealogy in two sections*, published by John B. White, Haverhill, Mass., 1909.

*Barclays of New York, The*, by R. Burnham Moffat, New York, 1904.

*Belding Genealogy*. Comp. by Charles C. Whitney, New York, 1896.

*Bentley Gleanings*, by Mrs. Julia Harrison Lobdell, Chicago.

*Benedicts in America, The*, by Henry Marvin Benedict, Albany, 1870.

*Blakes of Somersetshire, Record of*, by Horatio G. Somerby, Boston, 1881.

*Boardman Genealogy, 1525-1895*, Comp. by Charlotte Goldthwaite, Hartford, 1895.

*Boynton, American Directory, 1638*, Comp. by John F. Boynton, Syracuse, N. Y., 1884.

*Brackett, Descendants of Anthony Brackett, Portsmouth, N. H.*, by Alpheus Brackett, Everett, Mass., 1897.

*Bradlee Family, History of*, by Samuel Bradlee Doggett, Boston, 1878.

*Bradford, Governor William and his son Major William Bradford*, by James Shepard, New Britain, Conn., 1900.

*Bradstreet, Pedigree of*, Comp. by John Dean and Dean Dudley. Chart.

*Brainerd-Brainard Family in America, 1649-1908*, by Lucy A. Brainard, 1908, 3 vols.

*Brigham, Thomas, Descendants of*, by Rev. Abner Morse. Boston, 1859.

*Chamberlain Family History*, by Rev. A. J. Fretz, Milton, N. J., 1907.

*Child, Childs and Childe Families, Genealogy of*, by Elias Child, Utica, N. Y., 1881.

*Clarke, The Descendants of Nathaniel and his wife Elizabeth Somerby*, by George Kuhn Clarke, Boston, 1902.

*Clarke, Records of the Descendants of Thomas Clarke, Plymouth, 1623-1697. Wis. 1884.* Comp. by Rev. William W. Johnson.

*Shepherd-Engle Reunion Association. History and Genealogy of the John Shepherd family* (courtesy of K. K. Hodgman). Compiled by R. N. Hodgman, 1913.

Mr. Ambrose Swasey. *The Swasey genealogy*, by B. F. Swasey.

Mr. Richard B. Teachenor. *A Partial History of the Tichenor Family in America.*

Mr. Frank Trumbull. *Descendants of James Wilton Thomas and Eliza Ann Johnson. Maternal Ancestry of Frank Trumbull.*

Dr. J. J. Tyler. *The Descendants of Thomas Gleason of Watertown, Mass., 1607-1909.*

Mr. M. D. Vail. *Ancestors and Descendants of Edwin Bishop Vail.*

Mr. Edward Wilson. *Thomas Wilson and his Descendants*, by Edward Wilson.

#### LIBRARY ACCESSIONS BY GIFT

Among the larger individual gifts to the Society we call especial attention to the following:

Mrs. W. H. Beebe. 290 books and 300 pamphlets. This collection in the larger part bears on the I. O. O. F. and the Masonic organizations in Ohio. This gift also included some early Ohio Railroad reports

and bound volumes of the Ohio State Documents for 1824, '25, '26, and '27. These latter are quite unique in bound volumes as only a few miscellaneous reports of these years are in any of the libraries of the country.

Another valuable collection consisting of 75 volumes and 350 pamphlets came from Miss Lillie Jenkins. In this collection were 30 early imprints of Mt. Pleasant, Ohio, and seven of St. Clairsville. Perhaps the most interesting items were the early Ohio periodicals, embracing a set of the *Philanthropist*, edited by Elisha Bates, 1818-22, also *The Moral Advocate*, 1821-22, *The Miscellaneous Repositor*, 1829-33, *The Social Circle*, 1827-28, and the *Genius of Universal Emancipation*, 1821-22.

In response to a request for books pertaining to the History of the various denominations of the state, Rev. Alanson Wilcox has made an effort to bring together, as nearly as possible, a complete set of the records of the Disciple or Christian Church. He has brought in many valuable books, too numerous to mention in detail, amounting to eighty volumes and sixty-five pamphlets.

The Society is especially indebted to Mr. Wilcox for the great aid he has given towards the preservation of the history of the denomination he has served faithfully so many years as one of its ministers and leaders.

It is our earnest hope that others will become interested in the preservation of their special denominational history and will aid us in collecting along these lines.

A very welcome addition to our library has been made by Dr. Elroy M. Avery, who in preparing to move to Florida, his future home, has turned over to us some 429 miscellaneous volumes and several hundred pamphlets and periodicals, besides a number of maps, pictures, newspapers, etc. As the material has just come in we have had no opportunity of going over it. We must, however, speak of one most interesting item—a scrapbook kept by Dr. Avery through

his long connection with the Fresh Air Camp, containing almost a complete history of the reports, various activities, donations, etc., to this Cleveland Institution.

We fully realize the importance of keeping the history of these institutions as nearly complete as possible, as there are frequent calls on us for them.

### MISCELLANEOUS BOOKS

*The University of Pennsylvania.* A full set of their publications in History and Political Economy. Two volumes of *Schoolmen's Week Proceedings, 1917-18*. Set of five volumes of *Free Public Lectures, 1913-18*.

Canada Department of Mines. Twelve of their publications.

Rev. R. T. Cross. *Catalogues of The Twinsburgh Institute for 1845-61*, 13 nos.

Mr. Richard S. Bayhan. *Humorous Tales of "Bennington-on-the-Hill,"* by R. S. Bayhan, Cleveland, Ohio, 1918.

Mr. Wm. K. Bixby. *Two Letters from General William Tecumseh Sherman to General Ulysses S. Grant and William T. McPherson, in the Collection of W. K. Bixby of Saint Louis.* Privately Printed, 1919.

Mr. E. D. Billings. *Willson's History of the United States, New York, 1851*, and four other books.

Mrs. E. D. Billings. *The American Crisis*, Thomas Paine London.

Mr. Wm. G. Dietz. Miscellaneous pamphlets.

From the Author. *Causes that led to the War between the States*, by Mr. J. O. McGehee, Atlanta, Ga., 1915.

Mrs. Frank Masten. A complete set of the *Journal of American History, with index. Narrative and Critical History of America, Vols. 1-8 incl.* Edited by Justin Winsor.

Rev. Charles Hutchins. *The Autobiography of Levi Hutchins.* Cambridge 1865.

Prof. W. H. Siebert. *The Tory Proprietors of Kentucky Lands*, by Prof. Siebert.

The American Numismatic Society. A set of their Proceedings, 25 numbers in all.

Mr. J. M. Ackley. *Abel Flint's Surveying*. Hartford, 1808.

Mr. S. P. Baldwin. 161 miscellaneous periodicals, pamphlets, etc.

Bank of Commerce, Cleveland. 33 volumes and 40 pamphlets.

Mr. John Candee Dean. *Journal of Thomas Dean—An Account of a Journey to Indiana in 1817*.

Mrs. Fannie A. Bissell. Eight copies of the catalogues of Twinsburg Institute.

Prof. H. E. Bourne. Five volumes and 14 pamphlets.

Dept. of Archives of Canada. Sixteen volumes of their Annual Reports.

Mr. C. M. Burton. Reprint of the Manuscripts from the *Burton Historical Collection Nos. 7 & 8*.

Mr. W. H. Cathcart. 275 miscellaneous pamphlets. 7 volumes of the *Millennial Harbinger, 1844-57*. Set of the *Zanesville Baptist Ohio Association Minutes, 1859-1918*.

Cleveland Museum of Art. 24 books and 53 pamphlets.

*Daughters of the American Revolution, Chicago Chapter Year Book, 1918-19*.

Mr. J. D. Cox. *Representative Citizens of Ohio*, by G. F. Wright.

Mrs. C. J. Craft. Current file of *The Independent*, and other miscellaneous publications.

Independence Hall. *Catalogue of the Portraits and other Works of Art, in Independence Hall, Philadelphia, with Historical Sketch*.

Mrs. W. E. Cushing. 60 miscellaneous volumes.

Mr. J. B. Doyle. *Steubenville, Past, Present, and Future, 1872*. Wells High School, Steubenville, Ohio. *Sermon Preached by Rev. John Boyd, D. D., on his Fiftieth Anniversary as Rector of St. Marks Episcopal Church, Marietta, Ohio, Sept. 9, 1900*.

Mrs. Emelda J. Donaldson. *Catalogues of the Steubenville Female Seminary for 1841, 1846, 1879, 1881, 1888-9, 1889-90. Memorial of Rev. Charles Clinton Beatty and his wife, Mrs. Hetty Elizabeth Beatty*. Printed in New York, 1883.

Mrs. H. Clark Ford. *Report of the Champlain Tercentenary*, prepared by Henry Wayland Hill, 1911.



Mr. Emmet W. Gans. *A Pennsylvania Pioneer.*

The Giddings Estate. *Thirteen Speeches of Joshua R. Giddings. Congressional Directory, 3d Session, 27th Congress, Wash. 1842-3.*

The Guaranty Trust Company of New York. Publications as issued, including *The Guaranty News.*

Dr. Henry E. Handerson. *Gilbertus Anglicus*, by Henry E. Handerson, with biography of the author. 1918.

Mr. Willis T. Hanson, Jr. *A History of Schenectady During the Revolution*, by Mr. Hanson, Jr., 1916.

Mrs. E. L. Harris. 40 pamphlets and 100 miscellaneous magazines.

Mr. W. T. Higbee. *Lippincott's Pronouncing Gazetteer of the World. 2 vols. Historic New York, 2 vols. 1897. The Capitals of Spanish America*, by W. E. Curtis. *The Empire of Business*, by Andrew Carnegie. *Andrew Carnegie, the Man and His Work. History of the American Troops during the Late War, 1830.* Five miscellaneous volumes.

Mr. Norman E. Hills. A large collection of miscellaneous books and pamphlets from his father's library.

Rev. Francis T. Hoover. Annotated copy of *Enemies in the Rear*; or *A Golden Circle Squared.*

Mr. C. A. Hoppin. "*The Dragon*"—Souvenir edition. Issued by Edward Lee McClain, High School, Greenfield, Ohio, Dec., 1915. Catalogue of Pictures, Sculptures, etc., in the Edward Lee McClain High; School, Comp. by F.R. Harris, Principal. *The Greenfield Journal* for Sept. 2 and 17th, 1915.

Mr. Ralph King. *The History of St. Luke's Church, Marietta, Ohio.* Rev. Waters Theodore Edson, Doctor of Divinity. *All Saints Church, Chelmsford, Mass. Chelmsford, Mass. 250th Anniversary, 1905. History of Chelmsford, Mass.,* by the Rev. Wilson Waters, 1917. (Through the courtesy of Rev. Wilson Waters.)

Mr. J. W. Larwell. *The Handmaid to the Arts. 2 vols. The British Trident, London. 2 vols. The Holy Bible, Vol. 2, Phila. 1798. Ballou's Pictorial, 1 vol., also Gleason's Pictorial, 1 vol.*

Miss Sarah Fiske Lee. *The History of New Ipswich, New Hampshire, 1735-1914.*

The Lewis Publishing Company. *History of Cleveland and its Environs*, 3 vols.

Mr. E. S. Loomis. 66 miscellaneous volumes, 6 pamphlets.

Mrs. Amos B. McNairy. *The Ohio Valley in Colonial Days*. By Berthold Fernow.

*The Massachusetts Historical Society*, by gift and purchase, 15 volumes of the *Collections of the Massachusetts Historical Society*, which nearly completes our set.

Mr. H. C. Miller. *30th Annual Reunion of the First Ohio Heavy Artillery*.

Mr. John Neely. *Set of the Rosters of Ohio Soldiers, 1861-66*.

Mrs. R. W. Nye. *Copy of Naval Monument to the Officers of the United States Navy*.

Col. John P. Nicholson. Nearly 500 miscellaneous pamphlets.

Mr. E. S. Page. *The Rowfant Year Books for 1911-1917, Rowfantia for 1912; A Lover's Moods, 1914; Satirical Letters de Bergerac, 1914*, completing the set of Rowfant publications previously given by Mr. Page to the library.

Mr. Wm. P. Palmer. *The Voice of the Nation and Other Verse*, by Frank M. Gregg. *History of Bangor Theological Seminary*, by Calvin Montague Clark. *The Hakluyt Society publications, 1917 and 1918*. *History of Castine, Penobscot, and Brooksville, Maine*, by George Augustus Wheeler. Bangor, 1875. *Marietta College Historical Collections*, edited by Archer Butler Hulbert, Vol. 3. *Our Inns from 1718 to 1918 in their relation to the General Development of our Community*, by Paul Mange. *History of Beaver County, Pennsylvania*, 2 vols., by Rev. Jos. H. Bausman. Edition de luxe, full Morocco binding.

Mr. James Parmelee. Volume 3 of the *Iconography of Manhattan Island*, by I. N. Phelps Stokes.

Miss Lydia Pennington. *History of the Great Lakes*, 2 vols. *Appleton's Journal*, 19 vols.

Mr. Daniel Pratt. *History of Company K, First Alabama Regiment*, by Daniel P. Smith.

Mr. A. S. Chisholm. *Abraham Lincoln and the Union*, by Nathaniel W. Stephenson.

Public Library, London, Ontario. *Transactions of the London and Middlesex Historical Society, Parts 3-8, 1907-1917. Historic Sketches of London and Middlesex, Part 2. Historic Sketches of London, Ontario, 1908.*

Estate of Sarah K. Ranney. 38 books and 371 pamphlets.

Mrs. Scott Robinson. Eight miscellaneous books, and two scrap books containing early Cleveland material.

Mrs. Thos. L. Ross. Five miscellaneous books.

Mrs. C. H. Smith. Collection of Civil War Material—Reunions, clippings, badges, etc. *Encyclopedia of Free Masonry*, by A. G. Mackey, Phila. 1874.

Miss Evelyn Smith. *The Manual of the First Congregational Church, Ridgefield, Connecticut, 1904.*

Mr. A. Sperry. *History of the Ninth Regt. New York Vol. Cavalry, War of '61-65*, by Newel Cheney. Poland Center, 1901. *History of the First Wisconsin Battery Light Artillery, 1907. History of Hampton Battery F., Independent Penna. Light Art. General Orders from Adj. and Inspector Generals Office, Conf. States Army, from Jan. 1862-Dec. 1863.* This was the personal copy of Secretary of War, Seddon. *History of the 104th Regt. O. V. I., 1862-65*, by N. A. Pinney. Also 12 other volumes.

Mr. John Meloy Stahl. *The Battle of Plattsburg; A Study in and of the War of 1812. The Invasion of Washington*, by John Meloy Stahl, 1918.

Mrs. G. E. Stevens. 100 pamphlets and 25 volumes. Also a large collection of *Baptist Association Minutes of the State.*

Mr. Ambrose Swasey. *History of the First Baptist Church, Exeter, N. H.*, by B. F. Swasey. *Historical Sketch First Baptist Church of Cleveland*, written by Mary E. Adams. *New England Society of Cleveland and the Western Reserve. Union Club of Cleveland, 1910. John Fritz Medal book*, giving the recipients of the John Fritz medal.

Mr. W. C. Talmage a few years ago presented to the museum a very fine collection of beaver cuttings, photographs of the beavers working, etc. This year he has presented to the library his collection of books and pamphlets which embraces practically all of the more important works on the beaver. He has also given a copy of the *Catalogue of Lock-*

wood, *Van Dorn & Miller Hardware Company*, the first hardware catalogue published in America; also a copy of the firm's successors, last issue, 1918.

Mr. Wm. Thompson. *One of John Brown's Men*, by John W. Wayland. *The Liberty Bell*, Boston, 1843.

The University of Toronto, Canada. Vols. 5-7, *Review of Historical Publications Relating to Canada*.

Mrs. A. F. Weaver. 34 Miscellaneous Text-books, etc.

Mr. S. S. Wilson. 8 miscellaneous books and pamphlets.

The Filson Club. *The Anti-Slavery Movement in Kentucky prior to 1860*, by Asa Earl Martin, 1918. (Filson Club Publication, No. 29.)

Ontario Bureau of Archives, Toronto, Canada. *Reports of the Bureau of Archives for the Province of Ontario*, from Vol. 1-13 incl. 1903-1916.

Hon. Myron T. Herrick. Eight miscellaneous volumes. A file of *Harper's Weekly* for 1880.

Mrs. Whirl. A file of "*Punch*," or the "*London Charivari*" for 1857 and '58.

Mrs. Frank Meade. Catalogues of the *Cleveland Female Seminary*—2nd, 4th, 11th, 12th, 13th, 14th, 15th, 17th, 19th, 1855-1873. Circulars of the *Cleveland Female Seminary*, 1849. *The National Geographic Magazine*, 1912-1917, 12 vols. *The Living Church Annual*, 1907-1918, lacking 1913, 11 vols. One volume *American Heraldica*. One set *The Book of Ohio*, in 25 parts. Also 40 miscellaneous books and pamphlets.

Mrs. Carl H. Rust. *A Brief History of the Town of Norfolk*, from 1738-1844, by Auren Roys.

## MUSEUM

The space allotted in our building to the museum is becoming more congested every year, so much so, that many do not appreciate the various collections that we have. In attempting to group objects together, for an intelligent display, they have to be so crowded that much of the value of the display is lost. However, this need will be brought up more in detail in another part of the report.

To the museum this year have come several early specimens of lamps, candlesticks, fireside lights, etc.

Mr. J. M. Ackley. Surveys, level and tripod used by Mr. Ackley's father, John Anson Ackley, in the first surveying of the Ohio Canal. One home-made wooden globe used in the schools over seventy-five years ago. One hand-made gouge for tapping maple trees. Pair of hand-made wrought fire shovel and tongs.

Mrs. A. F. Weaver. Trunk nearly one hundred years old, the property of Mrs. Lyman Strong's grandmother, Elizabeth Bemiss. This contained a boy's suit of clothes of the period and other articles of wearing apparel.

Mrs. A. Sperry. Nine pieces of old china.

Mrs. T. W. Hill. Two pheasants and one white owl, mounted.

Mr. A. E. Merkel. Silk flag of "Troop A," First Ohio Cavalry in the Spanish American War. Silk flag presented by the Cleveland Chamber of Commerce to the First Ohio Volunteer Cavalry, in the Spanish American War.

Mr. M. A. Sperry. Collection of Civil War relics.

Mrs. Chas. W. Wason. A large collection of historic walking sticks. One pewter stein dated 1708.

Mrs. Dudley S. Blossom. Small lap desk used by the Bronte sisters.

Mr. W. C. Talmage. Teapot and base of English Windsor Ware, owned and used by Mr. and Mrs. H. G. Talmage, the parents of Mr. W. C. Talmage.

Mrs. W. E. Cushing. A very fine totem pole from Alaska.

Mr. George Dautel. One surveyor's compass and tripod used by Hon. J. M. Rickey in surveying the Pennsylvania and Ohio boundary line.

Mr. C. A. Otis. Electric lamp, the base of which was made from the spindles of the stairway in the old City Hall of Cleveland, erected at the time Mr. Otis' father was Mayor in 1873.

Dr. H. K. Cushing Estate. One large bust of Benjamin Franklin.

Mrs. Frank Meade. A very early home-made wax doll that was the property of Mrs. Mary S. Bradford. A unique

wooden collection box used in one of the early New England churches.

Mr. J. W. Walton. A wrought iron spike taken from the "Niagara," flagship of Commodore Oliver H. Perry.

### PRINTS AND PORTRAITS

This collection as it becomes enlarged and better known is growing in interest and additions are earnestly desired. The only regret is that we have not the proper means of displaying it for the benefit of the public.

A very complete and valuable addition has been received in;

#### THE H. K. CUSHING FRANKLIN COLLECTION

It is by far the most representative collection that we have received for some time and came to us by gift from his estate.

Dr. Cushing had formed a unique and very comprehensive collection of portraits of this famous American. Practically all the authentic types of Franklin portraiture is represented. In the collection there was all told, something like one hundred prints. The rare ones are framed and have been carefully catalogued.

Dr. Cushing went at his collecting in the same methodical and painstaking manner that you would expect of a physician of his high standing, and brought together, without regard to cost, the best types of prints made by the most famous artists from the few oil paintings of Franklin that are known to be authentic.

Mr. Bowen, one of the foremost authorities on Franklin portraiture in this country, and the author of an extensive work on the subject, said, in looking it over, the collection is very representative and one of the best on Franklin.

Mr. Myron T. Herrick, from the portraits of President McKinley in his own private collection, has presented the

Society, eighteen portraits. Also portraits of President and Mrs. Hayes. This collection of portraits of one of Ohio's greatest statesmen is most welcome, as we hope to complete as near as possible, the portraiture of the outstanding men of this state.

A remarkable collection of contemporaneous photos of members of the 39th Congress, all bearing autographs, has been received from Mr. Wm. P. Palmer, also a number of other photographs and prints of prominent men and women connected with the Civil War and Slavery.

### PICTURES

R. C. Parsons. Framed oil painting of Samuel Starke-weather, Mayor of Cleveland in 1844. Twenty large photographs of prominent Americans.

Mrs. Scott Robinson. Framed Oil painting of George Faucette Marshall, painted by Churchill in 1862. Mr. Marshall died in Cleveland in 1904 at the age of 87 years.

Group of Editors and Reporters of the *Cleveland Plain Dealer*.

Dr. H. K. Cushing Estate. Framed portrait of Joc-O-Sot, the "Walking Bear," who was buried in the Erie Street cemetery. Twelve other American portraits.

Mr. Wm. P. Palmer. Framed portrait of Major General Geo. H. Thomas, engraved by Buttre, in 1865. Framed portrait of the Lincoln Family, by Dainty. Album containing photographs of graduating class of 1861 from the U. S. Naval Academy.

Mr. Andrew Squire. The Bench and Bar of Cleveland in 1918. Framed.

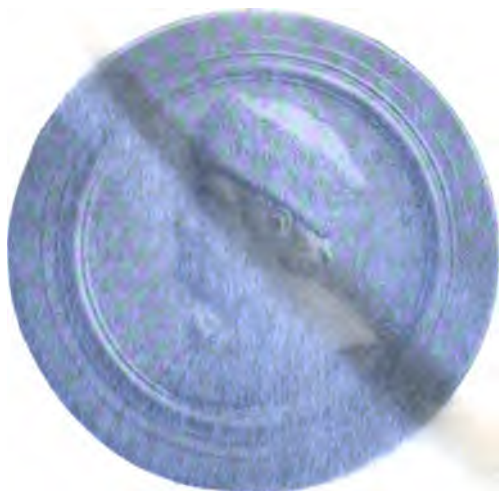
Bank of Commerce. Tile plaque portrait of D. W. Caldwell, President of the "Lake Shore Railway Company" in 1895. Through its President, Mr. Geo. S. Russell, large framed photographs of its Board of Directors, which was made up of some of the foremost citizens of Cleveland, as follows: Jeptha H. Wade, William Chisholm, James Pickands, Charles H. Bulkley, John H. McBride, Amasa Stone, J. P. Robinson, Joseph Perkins, Henry Chisholm, Joseph K. Boole, Hiram Garretson, D. W. Caldwell, Geo. B. Ely, Stillman Witt, and Henry B. Payne.



**TWO NINI MEDALLIONS**

**From the H. K. Cushing Franklin Collection**

**Reduced: the size the 1779 medal is 6 inches and the 1777 medal  $4\frac{1}{4}$  inches in diameter.**





2

34





Mrs. R. H. Fetterman. Large framed picture of the Battle of Gettysburg taken from the original painting hung in the State House at Harrisburg. Framed oil painting of an early view of Cleveland's harbor.

Mrs. Fannie Bissell. Framed portrait of Rev. Samuel Bissell, founder of Bissell Institute at Twinsburg. Also his diploma from Yale, framed. Photograph album with signatures of the Class of 1823 of Yale.

Mr. Norman E. Hills. Eighteen photographs of Kelley's Island, including the residences of Norman and Ira Kelley.

Col. John P. Nicholson. A large collection of Civil War pictures.

Mrs. Ella Bradford Brown. Framed oil paintings of Joel Scranton and wife Irene Hickox Scranton, father and mother of Mrs. Mary Bradford. Mr. and Mrs. Scranton were early pioneers of Cleveland, and Scranton Avenue was named after them.

### MEDALS

Of the various medals brought out as a result of, or bearing on the late war, we have as yet only two, the first of these a medal issued by the Belgian Government in honor of the services of Honorable Brand Whitlock, U. S. Minister to Belgium. It is exquisitely designed by C. Devreese, one of the foremost modelers of Belgium, size 48 or 3 inches in diameter. The obverse: full bust of Mr. Whitlock, facing left, with the legend BRAND WHITLOCK MINISTRE DES ETATS-UNIS D'AMERIVUE A. BRUXELLES with the artist's name C. DEVRESSE in small raised letters to right of bust. The reverse: a wreath of wheat and oak stems crossed at the bottom and tied with a ribbon. In center of wreath the legend: A SON EXCELLENCE BRAND WHITLOCK LA BELGIQUE RECONNAISSANTE 1914-1915. On ribbon at the bottom RELIEF.

This beautiful medal was received from Mr. Whitlock through the courtesy of Mr. Kermode F. Gill, a member of this society.

The other medal referred to is one issued by the American Numismatic Society, in bronze, size 40, commemorating the aerial crossing of the English channel by King Albert and Queen Elizabeth of the Belgians. Obverse: Busts of King Albert and Queen Elizabeth facing left. Around the outer edge of the medal the legend KING·ALBERT·AND·QUEEN ELIZABETH·OF·THE·BELGIANS· On scroll below busts FORTISSIMI·SUNT·BELGAE· To the left near bottom, a small monogram of the designer's initials T. S. Reverse: on lower part water and clouds, representing the English channel, above, a sea gull and an air ship flying. Around the outer edge the legend COM-MEMORATING·THEIR·AERIAL·CROSSING OF·THE·ENGLISH·CHANNEL·JVLY·MDCCCC-XVIII. Below the waves, the designer's name.

With the H. K. Cushing Franklin Collection, seven rare Franklin medals were received. The most prominent of these are probably the ones designed by J. B. Nini at the time Franklin was abroad, one dated 1777, *the* other 1779. The earlier one bears the bust of Franklin wearing his fur cap, which created so much comment abroad; the other represents Franklin without hat and shows his head very bald. These two were issued in red clay. (See illustration.)

In the same collection, one similar to the 1777 Nini medal struck in bronze. Still another is the F. Dupré medallion which bears a most striking likeness of Franklin.

In addition to the Franklin medals, the following were received from Mr. Cushing: one each of Fremont, Clay, Pierce, McClellan, two of General Grant, four of Abraham Lincoln, and three of Washington.

The collection of Civil War and Lincoln medals, which is a part of the Wm. P. Palmer Collection, has received, through the gift of its donor, a large increase of about 200 medals, during the year; the majority of these bearing upon Lincoln, although there is being built up gradually, in this collection, a very



**WASHINGTON MEDALLIC PORTRAITS**  
From the J. D. Cox Collection



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With the H. R. Cushing Franklin Collection, seven rare Franklin medals were received. The most prominent of these are probably the ones designed by J. B. Nini at the time Franklin was abroad, one dated 1777, *the* *other* 1779. The earlier one bears the bust of Franklin wearing his top hat, which created so much comment at the time because it represents Franklin without hat as looking as if he were bald. These two were issued by the Mint. (See illustration.)

Another rare collection, one similar to the 1777 Nini medal, struck in bronze. Still another is the F. Dupré medal which bears a most striking likeness of Franklin.

In addition to the Franklin medals, the following were received from Mr. Cushing: one each of Fremont, McClellan, two of General Grant, four of General Lincoln, and three of Washington.

The collection of Civil War and Lincoln medals, which is a part of the Wm. P. Palmer Collection, has received, through the gift of its donor, a large increase of about 200 medals, during the year; the majority of these bearing upon Lincoln, although there is being built up gradually, in this collection, a very







strong division of political medals bearing on the war period.

#### J. D. COX COLLECTION OF WASHINGTON MEDALS

In the report of last year, the J. D. Cox Collection of Medallic Portraits of Washington was estimated over 1000. During the year 121 more have been added to this collection, making the J. D. Cox collection, as far as we know, the largest collection of Washington medals in any library in America. This addition contains 72 medals not in Baker's catalogue. Among those that Baker lists there are several that are exceedingly rare and one or two unique. It will be of interest to speak of a few.

Baker No. 61 in silver, known as the "Manly Medal," is the first medal issued in this country bearing the portrait of Washington. It was the work of Samuel Brooks, a goldsmith and seal cutter living in Philadelphia during the last of the eighteenth century. It was struck by J. Manly, March, 1790. At the time of the announcement of the issuance of this medal, Governor Thomas Mifflin of Pennsylvania, Richard Peters, Speaker of the House of Assembly, Christopher Febiger, Treasurer of the State, and Francis Johnston, Colonel of the Army, made the statement that the portrait on the medal to be "a strong and expressive likeness, and worthy the attention of the citizens of the United States of America." The head on this piece, according to Baker, was from a model furnished by Joseph Wright, who painted a portrait of Washington from life at Philadelphia in 1784. The medal rather rude in execution, represents Washington as quite aged. We possess this medal now, in silver, bronze, and in a gold colored metal. One in gold is in the Appleton Collection in the Massachusetts Historical Society. (See illustration.)

Baker No. 288 in brass. A masonic medal. It is commonly known that Washington just before he became of age, joined the Masons in the Fredericks-

burgh Lodge, Virginia, November 4, 1752. This lodge is one of the earliest in America. After passing the fellowcraft degree in 1753, he was raised Master Mason, August 4, 1754. After the war he served as Master of Alexandria Lodge No. 22, which after his death changed its name to Washington Lodge No. 22. In 1780 he was elected Grand Master of the United States by the Grand Lodge of Pennsylvania, but this action failing to be sanctioned by the other Grand Lodges, the office was never established. This led to confusion, for many thought the office was created and that Washington was elected, hence the initials on the reverse of this medal. G. W., G. G. M. (George Washington, General Grand Master). The medal of English origin probably was issued in 1797. The head in low relief after Du Simiteré, is similar to that on the Half Dollars issued by Peter Getz of Lancaster, Pennsylvania, in 1792. The medal was issued in brass and is exceedingly rare. (See illustration.)

Baker No. 338 in silver. The membership badge of the Washington Market Chowder Club, 1818, is another exceedingly rare medal, although of less artistic merit.

Baker No. 169 in gold. One of the Funeral Medals and is perhaps the most valued of all the earlier Washington pieces, and the copy that we have is the only one known to be in existence issued in gold, although one other in the same metal was issued, and there was one in bronze, the latter being now in the Appleton collection. It was issued at the time of his death, and the obverse bears the bust facing to the left, in an olive wreath. immediately below, the initials G. W. with the following legend: HE IN GLORY THE WORLD IN TEARS. OB. D. 14. '99 Æ. '68. (See illustration.)

Many of the other medals are equally interesting from an historical and artistic point.

## SWEDISH PLATE MONEY

GIFT OF MR. AMBROSE SWASEY

### 4 Daler Coin—

Inscription: SILF(OER) MYNT F R S (Frederik Rex Suecia) 1730.

Coined during the reign of King Adolf Frederik and Queen Ulrika Elenora

### 1 Daler Coin—

Inscription: on verso, FLINK OCH FÄRDIG (Alert and ready) 1718.

Coinage was first introduced into Sweden by King Olof in 1019. The earliest coins were made of silver by Anglo Saxons who settled in the city of Sigluna, and resembled closely the Anglo Saxon coins of the same period. Upon the return to Sweden from his foreign wars, King Charles XII found Sweden in terrible financial condition. During the last years of his reign (1715-1718) he took no advice from Swedish men. Foreign adventurers and schemers were in charge of the affairs of State, principal among whom was a German, Baron George Henrik Goertz. (This Hun proved to be a traitor to Carl XII.) King Charles granted him authority to act in his name in almost every branch of the government, interior as well as foreign. Goertz was a genius, but utterly reckless. For his acts the King was responsible, not he. He tried to make loans abroad, made compulsory loans within the country; placed a tax on articles of luxury, and put in circulation coins of copper which were a kind of "promissory note," worthless in themselves, but each representing a Swedish dollar. At first these "coins of need" were issued to the amount of a sensible sum, but were soon increased in number at the command of Charles XII himself, so that they lost their value. The people refused to take them, while prices of everything rose to an astounding height, which made it necessary to make a change in the coinage. It was finally decided to have a coin of value and the large square copper coins were adopted. Each coin represented its value in copper. They were issued in denomination of  $\frac{1}{2}$ , 1, 2, 3, 4, 5, 8 and 10 dalers. The value of the 4 daler coin is about \$1.06.

Large coin, (4 daler) weighs  $6\frac{1}{2}$  pounds or 45433.6 grains. Size 9x9 inches.

Small coin, (1 daler) weighs 58 grains and 4 would weigh 232 grains. Size  $\frac{1}{4}$  inches in diameter

$$\frac{45433.6}{232} = 195.8 \text{ ratio between the 4 daler coin and the 4, 1-daler coins.}$$



## DIRECTOR'S REPORT

burgh Lodge, Virginia, November 4, 1752. This lodge is one of the earliest in America. After passing the fellowcraft degree in 1753, he was raised Master Mason, August 4, 1754. After the war he served as Master of Alexandria Lodge No. 22, which after his death changed its name to Washington Lodge No. 22. In 1780 he was ~~raised Grand Master~~ of the United States by the Grand Lodge of Pennsylvania, but this

action failing to be sanctioned by the other Grand Lodges, he was expelled from the office. He died in 1780, to confusion, for many thought the office was created and that the Grand Lodge of Pennsylvania was the only one. The coins were first introduced into Sweden by King Adolf Frederick, and resembled closely the Anglo-Saxon coins of the same period. Upon the obverse was a profile of the king, and on the reverse a figure of a woman, King Charles XII. toward Sweden in 1713-1718) he in a terrible financial condition. Foreign adventurers and schemers were in took no notice from Sweden men. Foreigners (this man proved to be a traitor to Carl XII.) King Charles granted him authority to act in his name in almost every branch of the government, (in fact, as a foreigner). Goetz was a genius but utterly reckless. For his acts the king was responsible, not he. He tried to make loans abroad, made copper coins, and put in circulation coins of copper which were a kind of "promissory note," worth less than the real thing, but each representing a Swedish dollar. At first these "coins of need," were valued to the amount of a sensible sum, but were soon increased in number at the command of Charles XII himself, so that they lost their value. The people refused to take them, while prices of everything rose to an astounding height, which made it necessary to make a change in the coins. It was finally decided to have a coin of value and the large square copper coins were adopted. Each coin represented its value in copper. They were issued in denominations of 1, 2, 3, 4, 5, 8 and 10 dollars. The value of the dollar coin is about 21 cents, and the copy that was

in to be in existence issued in gold, although in the same metal was issued. In the collection, the latter being now in the collection. It was issued at the time of his death, and the obverse bears the bust facing to the left, in an olive wreath. Immediately below, the initials G. W. with the following legend: HE IN GLORY THE WORLD IN TEARS. OB. D. 14. '99 Æ. '68. (See illustration.)

Many of the other medals are equally interesting from an historical and artistic point.





## NUMISMATICS

The Numismatic collections are not growing as fast as we would like, owing to the fact that we have no special funds for this purpose, the increase has come entirely through gifts. There are many numismatics in Cleveland and in the State who could add greatly to the collections if they became interested in our work. We are sure the day will come when the Society will possess a worthy collection in this line. The gifts this year have been both interesting and valuable.

Mr. Ambrose Swasey. A four daler plate money of Sweden and also a one daler coin, with interesting correspondence concerning the same. (See illustration with description.)

Mrs. T. W. Hills. Three bills of the Bank of Brest, Michigan.

Miss Alice Hussey. Five early bank bills.

Mr. George S. Russell. A series of bills issued by the Bank of Commerce, Cleveland, 1856.

Mr. J. R. Nutt.

16 American silver dollars, 1798-1869.

40 Half Dollars 1806-'65.

7 Quarter dollars, 1806-'39.

8 U. S. dimes, 1798-'34.

4 Columbian half dollars.

12 Miscellaneous American coins.

22 French, Italian, Mexican, Spanish,  
and English coins.

Mrs. Frank Meade. A small collection of coins.

Mrs. Chas. Wason. A small collection of coins.

Mr. J. W. Simpson. Two colonial bills of Rhode Island.

To the issues of the Colonial and Continental periods we have added 107 different issues, making our collection in this particular field, 344 different bills. To our Confederate States issues we have added 92 bills, and to the issues of individual Southern states, 46 pieces.



## CATALOGUING REPORT FOR THE YEAR

May 1, 1918 to April 30, 1919.

	Year 1918-19	Total to date
New titles catalogued . . . . .	2698	20, 984
Volumes catalogued (incl. sets, etc.) . . . . .	2522	20, 613
Pamphlets catalogued . . . . .	585	8, 086
Newspaper volumes catalogued . . . . .	3	92
Total volumes, pamphlets, newspapers, catalogued . . . . .	3110	32, 681
Cards added to catalogue . . . . .	14, 067	79, 767
Temporary slips . . . . .	4, 505	
Depository cards delivered to Cleveland Public Library . . . . .	2, 146	

There was in addition to the above 1934 guide cards and 410 cross reference cards typed and inserted in the catalog. No cataloguing was done for some three months.

## STATISTICAL REPORT OF THE LIBRARY

## ACCESSIONS

May 1st, 1918, to April 30, 1919.

*Bound Volumes*

Accessioned during the year.....	2562	
Withdrawn during the year.....	55	
		<hr/> 2507

Total number accessioned volumes remaining May 1st, 1918..... 

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44,575

Total volumes in Library May 1st, 1919..... 47,082

*Pamphlets*

Accessioned during the year.....	899	
Withdrawn.....	67	
		<hr/> 832

Total accessioned pamphlets remaining May 1, 1918..... 

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15,250

Total pamphlets in Library May 1st, 1919..... 16,082

*Newspapers bound*

Accessioned during the year.....	97	
Total accessioned newspaper remaining May 1st, 1918.....	1448	

Total number of bound volumes of newspapers, May 1st, 1919..... 

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1,545

Total number of volumes, pamphlets, and newspapers accessioned to date..... 64,709

It is only fair to the Society to state that less than one third of our newspapers are bound and these only are accessioned. We feel safe in saying if our collection of books, pamphlets, and newspapers were fully accessioned, the number would exceed 125,000. We cannot well avoid this difference between the accession record and the actual number of books in the library until a large amount of binding is done, and our cataloging force largely increased.

W. H. CATHCART, Director.

## TREASURER'S REPORT

## TREASURER'S REPORT

## WESTERN RESERVE HISTORICAL SOCIETY

## RECEIPTS AND DISBURSEMENTS

Year Ending April 30, 1919

## RECEIPTS

Cash on hand May 1st, 1918. ....	\$3,484.96
Subscriptions, May 1, 1918 to April 30, 1919. ....	3,360.00
Special Contributions. ....	3,801.79
Income from Endowment. ....	6,110.71
Hodge Fund. ....	1,969.72
Miscellaneous Receipts. ....	52.27
Interest on Deposits to April 30, 1919. ....	58.07
Total. ....	<u>\$18,837.52</u>

## DISBURSEMENTS

May 1, 1918, to April 30, 1919. ....	<u>\$16,768.30</u>
Balance on hand May 1st, 1919. ....	2,069.22

## DISBURSEMENTS

Subscriptions to Periodicals. ....	\$ 64.50
Printing and Stationery. ....	1,390.21
Salaries. ....	9,110.20
General Expense. ....	660.72
Light and Heat. ....	814.40
Travelling. ....	248.16
Building Account. ....	33.67
Additions to Collections. ....	4,196.44
Hodge Fund. ....	250.00
	<u>\$16,768.30</u>

## SUBSCRIPTIONS

1 at \$250.00. ....	\$ 250.00
2 at 150.00 each. ....	300.00
1 at 100.00 each. ....	100.00
2 at 50.00 each. ....	100.00
3 at 25.00 each. ....	75.00
1 at 20.00. ....	20.00
1 at 15.00. ....	15.00
250 at 10.00 each. ....	<u>2,500.00</u>
	<u>\$3,360.00</u>

**Special contributors during the year were Messrs.**

<b>C. W. Bingham</b>	<b>H. A. Fuller</b>	<b>Kenyon V. Painter</b>
<b>C. C. Bolton</b>	<b>F. F. Hickox</b>	<b>Wm. P. Palmer</b>
<b>A. S. Chisholm</b>	<b>H. H. McKeehan</b>	<b>James Parmelee</b>
<b>H. Coulby</b>	<b>Wm. McLauchlan</b>	<b>F. F. Prentiss</b>
<b>J. D. Cox</b>	<b>Samuel Mather</b>	<b>Daniel R. Taylor</b>
	<b>E. M. Williams</b>	

**A. S. CHISHOLM, Treasurer.**



cd SLS 25507.20  
ly

**Publication No. 101**

**Collections**

**of**

**The Western Reserve Historical  
Society**

**Organized 1867  
Incorporated 1892**



**1920**









**WILLIAM C. COCHRAN, L.L.D.**

**Publication No. 101**

**COLLECTIONS**

# **THE WESTERN RESERVE HISTORICAL SOCIETY**

**Issued January 1920**

**THE WESTERN RESERVE  
AND  
THE FUGITIVE SLAVE LAW  
A PRELUDE TO THE CIVIL WAR**

---

**WILLIAM C. COCHRAN, LL.D.**

**Honorary member of the Literary Club of Cincinnati, Life Member of  
The Western Reserve Historical Society, Member of the  
Mississippi Valley Historical Association**

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**CLEVELAND, OHIO**

**1920**



*The Society*

## OFFICERS

# The Western Reserve Historical Society

### OFFICERS FOR 1919-1920

#### *President*

WILLIAM P. PALMER

#### *Vice President and Director*

WALLACE H. CATHCART

#### *Honorary Vice Presidents*

JOHN D. ROCKEFELLER

JACOB B. PERKINS

#### *Secretary*

ELBERT J. BENTON

#### *Treasurer*

WM. THOMPSON

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JACOB PERKINS  
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## ARTICLES OF INCORPORATION

### STATE OF OHIO

#### These Articles of Incorporation of THE WESTERN RESERVE HISTORICAL SOCIETY

*Witnesseth*, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation not for profit, under the general corporation laws of said State, do hereby certify:

FIRST. The name of said corporation shall be The Western Reserve Historical Society.

SECOND. Said corporation shall be located and its principle business transacted at the City of Cleveland, in Cuyahoga County Ohio.

THIRD. The purpose for which said corporation is formed is not profit, but is to discover, collect and preserve whatever relates to the history, biography, genealogy, and antiquities of Ohio and the West; and of the people dwelling therein, including the physical history and condition of the State; to maintain a museum and library, and to extend knowledge upon the subjects mentioned, by literary meetings, by publication and by other proper means.

*In Witness Whereof*, We have hereunto set our hands, this seventh day of March, A. D., 1892.

Henry C. Ranney  
D. W. Manchester  
Amos Townsend,  
William Bingham,

Charles C. Baldwin  
David C. Baldwin  
Percy W. Rice,  
Jas. D. Cleveland,

A. T. Brewer



## INTRODUCTORY NOTE

At this time, when the whole world is considering the possibility of a League of Nations, which shall secure even the feeblest from the aggressions of the strong, which shall afford a means for settling disputes between nations without war, and which shall relieve all from the necessity of maintaining huge armies and armaments for self protection; we can gain much by studying anew the history of the Confederation once formed between the thirteen colonies established on our Atlantic seaboard, the causes for its early failure, the difficulties attending the formation of "a more perfect Union," and the provisions embodied in the new Constitution which constantly disturbed the relations of the component States and finally led to internecine war, the elimination of the disturbing elements and the perfection of a Union unparalleled for its strength and freedom from militarism.

In addition to the works of former historians, the sources of their information, the reports of United States and State courts and the Statutes of Ohio, the author has had access to the valuable collection of newspapers, pamphlets and documents in the possession of the Western Reserve Historical Society, at Cleveland, and is greatly indebted to the officers of that Society for the facilities they have afforded for conducting his investigation. This fine collection might (and should) be further enriched, if individuals, who have preserved files of local newspapers and periodicals, pamphlets, diaries, and private correspondence concerning public affairs, would give



them to the Western Reserve Historical Society to be classified, catalogued, preserved and made easily accessible for students and historians. To the pleasures of the collector, such individuals will thus add the satisfaction of contributing to the public welfare and having their names identified with an institution which will outlive most families and village communities.

W. C. C.

Cincinnati, March 29, 1919.

# THE WESTERN RESERVE *and* THE FUGITIVE SLAVE LAW

## THE ELEMENTS OF DISCORD

### ARTICLE I.

"SECTION 2. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union according to their respective Numbers, which shall be determined by adding to the whole Number of Free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three-fifths of all other Persons."

### ARTICLE II.

"SECTION 1. Each State shall appoint in such Manner as the Legislature thereof may direct, a Number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

### ARTICLE IV.

"SECTION 2. No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due."<sup>1</sup>

Any one, who would fully understand the attitude of the people on the Western Reserve previous to the Civil War and during Reconstruction, should acquaint himself with the origin and history of the above clauses of the Constitution and the various laws, Federal and State, enacted in accordance therewith.

At the time the Constitution was adopted, slavery had been abolished or was in process of extinction in all but six of the States, and in three of these, Maryland, Virginia and North Carolina, there was persistent agitation by leading citizens for its gradual abolition. There was, however, no disposition to subject slaveholders to immediate pecuniary loss. The general expectation was that slavery would cease

<sup>1</sup> Ben Perley Poore, *Charters and Constitutions*, Vol. I, pp. 14, 17, 19.

to exist in all the States, except possibly South Carolina and Georgia, before twenty-one years had elapsed. This expectation is reflected in Section 9, Article I, of the Constitution, which fixes the year 1808 as the period, prior to which Congress may not prohibit "The Migration or Importation of such Persons as any of the States now existing shall think proper to admit"<sup>1</sup>—in other words, slaves. This prospect made the non-slavery delegates acquiesce more readily in the above provisions, insisted upon by the extreme pro-slavery men. At the same time, it made them particular that the system which they detested should not be mentioned by name in the great charter of the Union.

The apportionment of taxes and representation based on the number of all free persons, plus three-fifths of those who were not free, was an arbitrary measure which had no consistent theory to support it. In the thought of pro-slavery men, a negro was nothing but a domestic animal, a chattel, which could be bought and sold and set to work in the fields like any other animal. He had neither character nor intelligence and was in no wise to be considered, or treated as a man—much less as a citizen.

Why, then, should he not be excluded from the enumeration on which "Representation and direct Taxes" were to "be apportioned among the several States," just as "Indians not taxed" were?

Was the enslaved African considered higher in the social and political scale than a free Indian?

Was it because a slave is property, and property should be considered when taxes are to be apportioned and levied?

If so, why was not all property, north and south, taken into consideration at its true value in money?

Slaves were not taken into consideration in apportioning representation among the counties in

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<sup>1</sup> *Charters and Constitutions*, Vol. I, p. 16.

a slave State. Then, why should they have been considered in apportioning representation among the States?

If slaves were to be counted at all, why should not all be counted? Why three-fifths, rather than one-half, one-third, or one-tenth?

These and many other questions have puzzled students of our national Constitution in the past, and will continue to puzzle students in the future; the more, as it is being held up as a model after which all future republics should be formed. The excuse, rather than justification, commonly offered is like that advanced by Von Bethmann Hollweg and Kaiser Wilhelm for invading Belgium in August, 1914. It was wrong, but it was thought necessary to carry out the object which the delegates to the Constitutional Convention had in view—a Union, “perfect” or otherwise, of all the States.

#### GENESIS OF THE THREE-FIFTHS RULE AND FUGITIVE SLAVE PROVISION.

A Confederation of States had been formed a little over nine years before, but the Articles of Confederation contained no provisions like those above quoted from the first and fourth Articles of our present Constitution.

“Article 5. \* \* \* No State shall be represented in Congress by less than two nor more than seven members. \* \* \*

In determining questions in the United States in Congress assembled, each State shall have one vote.”

“Article 8. All charges of war and all other expenses that shall be incurred for the common defence or general welfare \* \* \* shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint.”<sup>1</sup>

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<sup>1</sup> *Charters and Constitutions*, Vol. I, pp. 8–9.

Thus, the troublesome question of apportionment for representation and taxation was settled in the Constitution adopted by the Constitutional Congress, November 15, 1777, and ratified by the signatures of delegates from the several States, at Philadelphia, July 9, 1778. Thus, too, the "Sovereignty" of the respective States was protected against a national power created by themselves.

It was not settled without debate. In the original draft of a Constitution it was proposed that the Treasury "should be supplied by the several colonies in proportion to the number of inhabitants of every age, sex and quality, except Indians not paying taxes, in each colony."

Samuel Chase, of Maryland, moved that the quotas should be fixed, not by the number of inhabitants of every condition, but by that of the "white inhabitants." He admitted that theoretically taxation should always be in proportion to property; but maintained that it could never be carried out in practice, because of the difficulties in discovering and fixing the value of property. Negroes are property and, as such, cannot be distinguished from lands or personalty held in those States where there are few slaves. There is no more reason for taxing the Southern States on a slave's head, than for taxing Northern ones on their heads of cattle. There spoke the logician; but his logic was sharpened by the interest of his State in shifting the burden of taxation from Southern to Northern States.<sup>4</sup> John Adams, of Massachusetts, argued that the numbers of people were taken as a fair index of the wealth of a State, and not as subjects of taxation; that it was of no consequence by what name you called your people, whether by that of free men or of slaves. "Suppose," he said, "one half the laborers of a State could, in the course of one night be transformed into slaves, would

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<sup>4</sup> Elliott, *Debates on the Federal Constitution*, Vol. I, 70 up.

the State be made poorer, or the less able to pay taxes?"<sup>1</sup> There also spoke the logician. But it is quite probable that, if the question had been one of apportioning representation instead of taxation, Chase would have advocated the enumeration of all slaves on the ground laid down by Adams, and Adams would have argued that slaves should not be counted as freemen. Chase's motion to amend was defeated by the votes of the seven Northern States—Delaware, Maryland, Virginia, North Carolina and South Carolina voting aye, Georgia divided.<sup>2</sup>

Dr. John Witherspoon, of New Jersey, President of Princeton College, was of opinion that the value of lands and houses was the best estimate of wealth and that it was practicable to obtain such a valuation<sup>3</sup> and his suggestion was finally adopted. Before the vote was taken, however, Benjamin Harrison, of Virginia, proposed, as a compromise, that two slaves should be counted as one freeman.<sup>4</sup> But little notice was taken of it, at that time.

The article in regard to giving each State an equal vote was opposed on the ground that it was unjust to the States having a large population. Why should little Delaware offset the vote of Pennsylvania, or little Rhode Island offset the vote of Virginia? James Wilson, of Pennsylvania, thought that taxation should be in proportion to wealth, but that representation should accord with the number of freemen. "It is strange," he said, "that annexing the name of 'State' to ten thousand men should give them an equal right with forty thousand. \* \* \* Shall two millions of people put it in the power of one million to govern them as they please?"<sup>5</sup> But, in the end, the "State Sovereignty" idea prevailed and the States confederated on the basis of equality.

When the delegates of the several States came

<sup>1</sup> Elliott, I., 71.

<sup>2</sup> Ibid., 73-4.

<sup>3</sup> Ibid., 73.

<sup>4</sup> Elliott, I., 72.

<sup>5</sup> Ibid., 77, 78.

together to act on the proposed Constitution, Pennsylvania moved to expunge the word "white" in the paragraph of the 9th article, fixing the quota of land forces to be furnished from each State "in proportion to the number of white inhabitants in such State." But the motion was defeated by 3 ayes, 7 noes, and 1 divided.<sup>10</sup>

In practice, the scheme of a Confederacy of independent "Sovereign States," each having an equal vote in Congress without reference to population or wealth, and each retaining within itself the power of laying and levying taxes for national purposes, failed to work. Congress designated from time to time the number of troops and the sums of money necessary for carrying on the war, but the "Sovereign States" were slow in responding. The State legislatures could not be always in session and it was no light matter to call them together between sessions. The several legislatures indulged in debates about certain requisitions, as if each had the right to decide for itself whether they were just or necessary, and whether Congress had made a fair apportionment. Many of the States claimed that they had contributed so many more men and so much more money and supplies than others that they ought to be exempt. Congress was without power to enforce the filling of any quota, or the payment of any assessment. "Sovereign States" were not to be coerced. The legislatures of New Jersey and Connecticut had expressly refused to comply with requisitions of Congress and had transmitted copies of such resolutions to Congress.<sup>11</sup> In December, 1782, Virginia, by resolution of both Houses of the Legislature, limited its contribution to £50,000, Virginia currency, toward the demands of Congress.<sup>12</sup>

The legislature of New York in the summer of 1782 passed resolutions declaring that:—

<sup>10</sup> Elliott, I., 90.

<sup>11</sup> Elliott, V.; 32, 36, 119, 207, 264.

<sup>12</sup> Bancroft, *United States*, VI., 63.

"the Confederation was defective in not giving Congress power to provide a revenue for itself, or in not investing them with funds from established and productive sources; and that it would be advisable for Congress to recommend to the States to call a general convention, to revise and amend the Confederation."<sup>13</sup>

On February, 1783, Congress, in committee of the Whole, decided by a vote of eight to one, (1) that a valuation of land within the United States as directed by the Articles of Confederation should be immediately attempted; (2) that each State should be called on to make a return of the number of acres granted to or surveyed for any person and also the number of buildings within it; but, by a vote of 5 to 4, (3) that the States should not be called upon to return an estimate of the value of their lands, with the buildings and improvements therein. In the discussion of these propositions it was pointed out that great inequalities and dissatisfaction were sure to result, as had already been demonstrated in an experiment in Virginia, and that a comparison of average valuation of land for State taxation in Pennsylvania and Virginia showed the latter to amount to fifty per cent more than the former, although the real value of land in the former was confessedly thrice that of the latter.<sup>14</sup> Every one familiar with local appraisements of land for taxation and the work of State and municipal boards of equalization knows the difficulty to be encountered and the complaints which follow. But these difficulties are small as compared with those encountered in the attempt to secure returns and proper valuation of personal property.

It was proposed that each State should nominate one commissioner and the thirteen should act as a board to settle the valuation. This was objected to on the ground that such commissioners would regard themselves as agents for their respective

<sup>13</sup> Elliott, V., 117-18.

<sup>14</sup> Elliott, V., 46-47.



States, and it was argued that commissioners appointed by Congress would be more impartial. Several members declared themselves as opposed to the whole scheme of valuation of land and in favor of substituting numbers of the inhabitants as the rule for apportioning taxes. The whole matter was referred to a special committee to draw up a proper act.<sup>16</sup> On March 6, 1783, this committee reported making the following recommendation, among others:—

“11. That as a more convenient and certain rule of ascertaining the proportions to be supplied by the States, respectively, to the common treasury, \* \* \* it shall be supplied by the several States in proportion to the number of inhabitants, of every age, sex and condition, except Indians not paying taxes in each State; which number shall be triennially taken and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint; provided always that in such numeration no persons shall be included who are bound to servitude for life, according to the laws of the State to which they belong, other than such as may be between the ages of \_\_\_\_\_ years.”<sup>16</sup>

This recommendation was discussed on March 27. Bland and Lee, of Virginia, still thought the value of land the best rule. Madison, thought the value of land could never be justly or satisfactorily obtained; that it would be ever a source of contentions among the States. Gorham, of Massachusetts, represented in strong terms, the inequality and clamors produced by valuations of land in the State of Massachusetts, and the probability of the evils being increased among the States themselves, which were more likely to be jealous of each other. Wilson, of Pennsylvania, said he was in Congress when the Articles of Confederation directing a value of land were agreed to; that the impossibility of compromising the different ideas of the eastern and southern States, as to the value of slaves as compared with

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<sup>16</sup> Elliott, V., 48, 49.

<sup>16</sup> Ibid., 62 to 64.

whites, led to its adoption. Clark, of New Jersey, said he also was in Congress when that rule was adopted, that the southern States would have agreed to numbers in preference to land, if half their slaves only had been included, but that the eastern States would not concur in that proposition. It was finally agreed that instead of fixing the proportion of negroes to be counted by ages, it should be fixed by absolute numbers and the clause was recommitted so as to have that done.<sup>17</sup>

On Friday, March 28, the committee reported that two blacks should be rated as one freeman. Carroll, of Maryland, thought four to one a better ratio, but four members, Wolcott, Higginson, Holton and Osgood, favored four to three, and Rutledge, of South Carolina, thought three to one the correct ratio. A motion for rating slaves as three to two failed to carry—New Hampshire, Connecticut, New Jersey, Pennsylvania, and Delaware, aye, 5; Massachusetts, Maryland, Virginia, North Carolina, South Carolina, no, 5; and Rhode Island, divided. After some further discussion, in which Lee, of Virginia, gave it as his opinion that two slaves were not equal to one freeman, Madison, who was adept in framing compromises, seized the psychological moment and proposed that slaves should be rated as five to three, and the article was thus amended by a vote of New Hampshire, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, aye, 7; Rhode Island, Connecticut, no, 2; Massachusetts, divided, 1. On the adoption of the article as amended the vote was a tie, Massachusetts, Rhode Island, South Carolina, Connecticut and Delaware voting, no; and Pennsylvania not voting.<sup>18</sup>

On April 1, 1783, Hamilton, of New York, who had been absent when these votes were taken, moved a reconsideration and, as it was now quite apparent

<sup>17</sup> Elliott, V., 78-9.

<sup>18</sup> Ibid., 79-80.

to all that some change in the manner of apportioning taxes was necessary, and that the rule of five to three came nearer to "splitting the difference" than any that had been suggested, the article, as so amended, was adopted without opposition.<sup>10</sup>

An ADDRESS TO THE STATES drawn up by Mr. Madison was passed *nem. con.* on April 26, 1783, and sent out with the proposed amendments to the Articles of Confederation, asking them to instruct their respective delegates to agree to the same. The Address said of the rule for supplying the common treasury "by the several States in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons \* \* \* except Indians not paying taxes:"<sup>20</sup>

"Although not free from objections, [it] is liable to fewer than any other that could be devised. The only material difficulty which attended it in the deliberation of Congress, was to fix the proper difference between the labor and industry of free inhabitants and all other inhabitants. The ratio agreed on was the effect of mutual concessions."<sup>21</sup>

Nothing but criticism and objections to these proposed amendments and the suggestion of numerous others resulted from this "Address." Things went from bad to worse. A convention of delegates met at Annapolis in September, 1786, and recommended the calling of a convention of all the States to revise, amend or alter the Articles of Confederation, so as to make the government more efficient. The delegates from New York were instructed by its legislature to move in Congress for the calling of such a convention.<sup>22</sup> This, in the opinion of Madison "conduced much to decide the point," and on February 21, 1787, Congress adopted a resolution calling a

<sup>10</sup> Elliott, V., 81.

<sup>21</sup> Elliott, I., 98-9.

<sup>22</sup> Elliott, I., 95.

<sup>23</sup> Elliott, I., 119; V., 96.

"convention of delegates, who shall have been appointed by the several States, [to] be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the States, render the federal Constitution adequate to the exigencies of government and the preservation of the Union."<sup>23</sup>

The urgent need for such a convention was set out in a letter by James Madison to Edmund Randolph, Governor of Virginia, dated February 25, 1787.

"Our situation is becoming every day more and more critical. No money comes into the federal treasury; no respect is paid to the federal authority; and people of reflection unanimously agree that the existing Confederacy is tottering to its foundation. Many individuals of weight, particularly in the eastern district, are suspected of leaning toward monarchy. Other individuals predict a partition of the States into two or more confederacies. It is pretty certain that, if some radical amendment of the single one cannot be devised and introduced, one or the other of these resolutions—the latter no doubt—will take place."<sup>24</sup>

Another letter from Madison to Randolph, dated April 8, 1787, sets forth some of the evils to be corrected and some of the obstacles to be overcome. He says:—

"I hold it for a fundamental point that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. \* \* \*

The first step to be taken is, I think, a change in the principles of representation. According to the present form of the Union, an equality of suffrage, if not just towards the larger members of it, is at least safe to them, as the liberty they exercise of rejecting or executing the acts of Congress is uncontrollable by the nominal sovereignty of Congress. Under a system which would operate without the intervention of the States, the case would be materially altered. A vote from Delaware would have the same effect as one from Massachusetts or Virginia.

Let the national government be armed with a positive and complete authority in all cases where uniform measures

<sup>23</sup> Elliott., I., 120.

<sup>24</sup> Ibid., V., 106.

are necessary, as in trade, &c. &c. \* \* \* Let this national supremacy be extended to the judiciary department.

The change in the principle of representation will be relished by a majority of the States, and those too of most influence. The Northern States will be reconciled to it by the actual superiority of their populousness; the Southern, by their expected superiority on this point. This principle established, the repugnance of the large States to part with power will in a great degree subside, and the smaller States must ultimately yield to the predominant will."<sup>26</sup>

In another place he says:

"But the radical infirmity of the 'Articles of Confederation' was the dependence of Congress on the voluntary and simultaneous compliance with its requirement by so many independent communities, each consulting more or less its particular interests and convenience, and distrusting the compliance of others."<sup>26</sup>

The day appointed for the meeting of the Convention was the second Monday in May, 1787, but the 25th was the first day upon which a sufficient number of members appeared to represent a majority of the States. They then elected George Washington their President and proceeded to business.<sup>27</sup> The sessions lasted from May 25 to Nov. 17, when the Constitution in its final form was signed by delegates representing a majority of the States and sent to the respective States for ratification. There were well-nigh irreconcilable differences of opinion on many points, and the debates, always animated, seem to have been marked at times with ill temper.<sup>28</sup>

<sup>26</sup> Elliott, V., 107.

<sup>26</sup> Ibid., 112.

<sup>27</sup> Elliott, I., 120.

<sup>28</sup> It is interesting at this time, when it is seriously proposed to form a League of Nations, to settle international disputes and secure peace, to follow these debates and study with care the solution of questions which are bound to arise in any such attempt. The first and most important question will be in what proportions shall the respective nations be represented in such a League. Shall the greatest have only the same vote in determining questions arising as the least; or shall representation be apportioned to the nations on the basis of comparative populations, or comparative wealth? How shall the League arrive at and enforce its decrees? How shall it be provided with funds, ships, armies, etc., to carry out any of its objects? Shall it be through the voluntary contributions of the constituent nations? The failure of the Articles of Confederation to secure

The delegates to the Constitutional Convention were all impressed with the weakness of the existing Confederation and the necessity of strengthening the central government, but they were divided, by conflicting interests and jealous fears, into many hostile groups and it seemed, at times, as though it would be impossible to reach an agreement. The majority of the delegates, like Madison, came to the Convention with the settled purpose of doing away with the Confederacy of "independent sovereign States" and of framing a central government, which should have supreme control in regard to raising revenues, armies, etc., and an independent executive and judiciary to compel the people of the respective States to respect its laws. A strong minority, however, wished only to patch up the old Articles of Confederation and still retain the feature of independent State action on all matters recommended by Congress. They also were very determined to adhere to the existing system of voting by States—each State to have an equal vote, regardless of size, wealth, or population. This was the attitude of the small States, generally.<sup>11</sup> One may infer, with reas-

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money, arms and men during the war of the Revolution; and the failure of the German Diet, in 1866, to restrain its most powerful member, Prussia, in its open defiance of the Diet's decision of its dispute with Austria over Schleswig-Holstein, furnish instructive object lessons. Much also can be learned from the debates in the Constitutional Convention of 1787. The delegates may not have been infallible, but they were, probably, the wisest and most experienced statesmen of their day and they went about their work with all due seriousness. That their views were influenced largely by the interests of the respective states they may have represented, is apparent, and the same thing may be expected of any assembly of delegates convened for the purpose of organizing a League of Nations.

<sup>11</sup> Rhode Island, the smallest of the States, having an area of only 1,248 square miles, refused to send delegates to, or have anything to do with, the Convention. New Hampshire, with an area of only 9,341 square miles, much of it mountainous and sparsely settled, was not represented until the Convention had been in session two months. Oddly enough, a majority of the delegates from New York, with its area of 58,768 square miles (then including Vermont) and its great agricultural and commercial advantages, sided with the little States and vigorously opposed the substitution of representation in proportion to numbers, for the existing method of voting by States, regardless of size, or population. When the principle of representation in proportion to numbers was finally adopted, Yates and Lansing, of New York, left the Convention, never to return, as did Luther Martin, of Maryland.

onable certainty, whether a delegate came from a large or a small State, by his attitude on this question, which was the first one to be settled by the Convention.<sup>30</sup>

“Mr. Brearly, of New Jersey, said, “It had been much agitated in Congress at the time of forming the Confederation and was then rightly settled by allowing to each sovereign State an equal vote. \* \* \* There will be three large States, and ten small ones. The large States, by which he meant Massachusetts, Pennsylvania and Virginia, will carry everything before them. \* \* \* When the proposition for destroying the equality of votes came forward, he was astonished, he was alarmed.” Mr. Patterson, also of New Jersey, “considered the proposition for a proportional representation as striking at the existence of the lesser States. \* \* \* He said there was no more reason that a great individual State, contributing much, should have more votes than a small one contributing little, than a rich individual citizen should have more votes than an indigent one. \* \* \* He alluded to the point, thrown out by Mr. Wilson, of the necessity to which the large States might be reduced, of confederating among themselves, by a refusal of the others to concur. Let them unite if they please, but let them remember that they have no authority to make others unite. *New Jersey will never confederate on the plan before the committee.* She would be swallowed up. \* \* \* He would not only oppose the plan here, but, on his return home, do everything in his power to defeat it there.” Mr. Wilson, of Pennsylvania, \* \* \* entered elaborately into the defence of a proportional representation, stating, for his first position, that as all authority was derived from the people, equal numbers of people ought to have equal numbers of representatives. \* \* \* Are not the citizens of Pennsylvania equal to those of New Jersey? Does it require one hundred and fifty of the former to balance fifty of the latter? \* \* \* If the small States will not confederate on this plan, Pennsylvania, and he presumed other States, *would not confederate on any other.* If New Jersey will not part with her sovereignty, it is vain to talk of government.” (Elliott, V., 175 to 177 incl.)

Two days later, Mr. Rutledge, of South Carolina, “proposed that the proportion of suffrage in the first branch should be according to the quotas of contribution. The justice of this rule, he said, could not be contested. Mr. Butler, also of South Carolina, urged the same idea; adding, that money was power; and that the States ought to have weight in the government in proportion to their wealth. Mr. Dickinson, of Delaware, contended for the *actual* contributions of the States as the rule of their representation, and suffrage in the first branch. By thus connecting the interests of the States with their duty, the latter would be sure to be performed. (Ibid. p. 178.)

“The question being about to be put, Dr. Franklin said, he had thrown his ideas of the matter on a paper; which Mr. Wilson read to the committee, in the words following:—

“Mr. Chairman: It has given me great pleasure to observe, that till this point—the proportion of representation—came before us, our debates were carried on with great coolness and temper. If anything of a contrary kind has on this occasion appeared, I hope it will not be repeated; for we are sent here to *consult*, not to *contend*, with each other, and declarations of a fixed opinion, and of determined resolution never to change it, neither enlighten nor convince us. Positiveness and warmth on one side naturally beget their like on the other, and tend to create and augment discord and division, in a great concern wherein harmony and union are extremely necessary to give weight to our councils, and render them effectual in promoting and securing the common good.

\* \* \* “I now think the number of representatives should bear some proportion to the number represented, and that the decisions should be by the majority

In order to bring the question to a point, King of Massachusetts, and Wilson, of Pennsylvania, moved (June 11, 1783);—

“that the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation.”

and on that question, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia, voted aye, 7; New York, New Jersey and Delaware, no, 3; Maryland, divided.<sup>11</sup>

It was then moved by Mr. Rutledge, seconded by Mr. Butler, both of South Carolina, to add to the words “equitable ratio of representation,” at the end of the motion just agreed to, the words “according to the quotas of contribution.”

On motion of Mr. Wilson, of Pennsylvania, seconded by Mr. Pinckney, of South Carolina, this was postponed in order to add, after the words “equitable ratio of representation” the words following—“in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons

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of members, not by the majority of the states. This is objected to from an apprehension that the greater states would then swallow up the smaller. I do not at present clearly see what advantage the greater states could propose to themselves by swallowing up the smaller, and therefore do not apprehend they would attempt it. \* \* \* But, sir, in the present mode of voting by states, it is equally in the power of the lesser states to swallow up the greater; and this is mathematically demonstrable. \* \* \*

‘The greater states, sir, are naturally as unwilling to have their property left in the disposition of the smaller, as the smaller are to have theirs in the disposition of the greater. \* \* \* I beg leave to propose, for the consideration of the committee, another mode, which appears to me to be as equitable, more easily carried into practice, and more permanent in its nature.

‘Let the weakest state say what proportion of money or force it is able and willing to furnish for the general purposes of the Union;

‘Let all the others oblige themselves to furnish each an equal proportion;

‘The whole of these joint supplies to be absolutely in the disposition of Congress;

‘The Congress, in this case, to be composed of an equal number of delegates from each State;

‘And their decisions to be by the majority of individual members voting.’ ”

(Ib. pp. 179–80).

<sup>11</sup> Elliott, V., 181.



Was it probable that the states would adopt and ratify a scheme which they had never authorized us to propose \* \* \* We see by their several acts in relation to the plan of revenue proposed by Congress in 1783 \* \* \* what were the ideas they then entertained.”<sup>11</sup>

Mr. Pinckney, of South Carolina, said: “The whole comes to this \* \* \*. Give New Jersey an equal vote and she will dismiss her scruples and concur in the national system.”<sup>12</sup>

Mr. Hamilton, of New York, could, by no means, accede to the sentiments of his colleagues.<sup>13</sup>

Criticising Mr. Patterson’s plan of government he said, among other things:

“Another destructive ingredient in the plan is that quality of suffrage which is so much desired by the small States. It is not in human nature that Virginia and the large States should consent to it; or, if they did, that they should long abide by it. It shocks too much all ideas of justice.”<sup>14</sup>

Mr. Madison, of Virginia, observed, regarding Mr. Patterson’s plan, that the violators of the Federal Articles had been numerous and notorious. Among the most notorious was an act of New Jersey herself; by which she *expressly refused* to comply with a constitutional requisition of Congress. Connecticut had to be bribed by a donation of public land (The Western Reserve) to acquiesce in a decree constitutionally awarded against her claim on the territory of Pennsylvania.<sup>15</sup>

He begged them to consider the situation in which they would remain, in case their pertinacious adherence to an inadmissible plan should prevent the adoption of any plan. He said:

“Let the union of the states be dissolved and one of two consequences must happen. Either the states must remain individually independent and sovereign; or two or more confederacies must be formed among them. In the first event, would the small states be more secure against the ambition

<sup>11</sup> Elliott, V., 193.

<sup>12</sup> Ibid., 201.

<sup>13</sup> Ibid., 197.

<sup>14</sup> Ibid., 207-208.

<sup>15</sup> Ibid. 198.

\* \* \* except Indians not paying taxes,"—this being the rule recommended to the States by Congress in April, 1783.

Mr. Gerry, of Massachusetts, thought property not the rule of representation. Why, then, should the blacks, who were property in the South, be in the rule of representation, more than the cattle and horses of the North?

On the question,—Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia voted aye, 9; New Jersey and Delaware, no, 2.

Mr. Sherman, seconded by Mr. Ellsworth, both of Connecticut, moved that each State shall have one vote in the second branch. Everything, Mr. Sherman said, depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch.

Connecticut, New York, New Jersey, Delaware, and Maryland, voted aye, 5; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, no, 6. It was then moved that the ratio of representation in the second branch be the same as in the first and carried by the same vote.<sup>11</sup>

All this was in committee of the Whole and not binding until reported to and formally confirmed by the Convention. So the discussion went right on as if nothing had been settled. Mr. Patterson, of New Jersey, and Mr. Lansing, of New York, made the point that the call for the Convention and the commissions of the delegates limited the delegates to amendments to the Articles of Confederation.

Mr. Lansing said:

"New York would never have concurred in sending deputies to the Convention, if she had supposed the deliberations were to turn on a consolidation of the States and a national government.

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<sup>11</sup> Elliott, V., 181-2.

and power of their larger neighbors, than they would be under a general government pervading with equal energy every part of the empire, and having an equal interest in protecting every part against every other part? In the second, can the smaller expect that their larger neighbors would confederate on the principle of the present Confederacy, which gives to each member an equal suffrage; or that they would exact less severe concessions from the smaller states, than are proposed in the scheme of Mr. Randolph?

The great difficulty lies in the affair of representation, and if this could be adjusted, all others would be surmountable. It was admitted by both the gentlemen from New Jersey, (Mr. Brearly and Mr. Patterson,) that it would not be *just to allow Virginia*, which was sixteen times as large as Delaware, an equal vote only. Their language was, that it would not be safe for Delaware to allow Virginia sixteen times as many votes." \*\*

On the question moved by Mr. King, of Massachusetts, whether Mr. Randolph's plan for a national government should be adhered to, as preferable to those of Mr. Patterson for a modified confederacy, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia voted aye, 7; New York, New Jersey, and Delaware, no, 3; Maryland divided. \*\*

The questions discussed in Committee of the Whole were then transferred to the Convention, and reargued at great length.

After a particularly tedious debate participated in by Luther Martin who occupied nearly two whole days, and Messrs. Lansing, Williamson, Madison, Wilson, and Sherman, Dr. Franklin said that it was time to apply humbly "to the Father of lights to illuminate our understandings" and proposed that "prayers imploring the assistance of Heaven and its blessings on our deliberations be held every morning before we proceed to business." He uttered a solemn warning that if they remained—

"divided by little partial local interests; our projects will be confounded; and we ourselves shall become a reproach and by-

\*\*Elliott, V., 210-11.

\*\*Ibid., 211.

word down to future ages. And, what is worse, mankind may hereafter, from this unfortunate instance, despair of establishing governments by human wisdom, and leave it to chance, war and conquest."<sup>40</sup>

Mr. Madison:—

"prayed them to ponder well the consequences of suffering the Confederacy to go to pieces. \* \* \* The weakness and jealousy of the small states would quickly introduce some regular military force, against sudden danger from their powerful neighbors. The example would be followed by others, and would soon become universal \* \* \* Throughout all Europe, the armies kept up under the pretext of defending, have enslaved, the people."<sup>41</sup>

Mr. Hamilton pointed out another consequence "of a most serious nature":—

"Alliances will immediately be formed with different rival and hostile nations of Europe, who will foment disturbances among ourselves, and make us parties to all their own quarrels. Foreign nations having foreign dominion are, and must be, jealous of us. \* \* \* It had been said, that respectability in the eyes of foreign nations was not the object at which we aimed; that the proper object of republican government was domestic tranquility and happiness. \* \* \* No government could give us tranquility and happiness at home which did not possess sufficient stability and strength to make us respectable abroad. This was the critical moment for forming such a government."<sup>42</sup>

Mr. Bedford, of Delaware, said:—

"the little states are willing to observe their engagements, but will meet the large ones on no other grounds but that of the Confederation. We have been told with a dictatorial air, that this is the last moment for a fair trial in favor of a good government. It will be the last, indeed, if the propositions reported from the committee go forth to the people. He was under no apprehensions. The large states dare not dissolve the Confederation. If they do, the small ones will find some foreign ally, of more honor and good faith, who will take them by the hand and do them justice."<sup>43</sup>

<sup>40</sup> Elliott, V., 253-4.

<sup>41</sup> Ibid., 258-9.

<sup>42</sup> Ibid., 257.

<sup>43</sup> Ibid. V., 268.

Big talk from a little state, threatening to take the very course which Hamilton had pointed out as one of the greatest evils of disunion!

A suggestion of compromise, first thrown out by Mr. Sherman in Committee of the Whole, June 11, and repeated in Convention, June 20, was taken up on June 29th and elaborated by Dr. Johnson and Mr. Ellsworth, the latter of whom moved its adoption. As stated by Dr. Johnson:—

“in some respects, the states are to be considered in their political capacity, and, in others, as districts of individual citizens. The two ideas embraced on different sides, instead of being opposed to each other, ought to be combined—that in *one* branch the *people* ought to be represented, in the *other*, the *States*.”<sup>44</sup>

Mr. Ellsworth said, *inter al*:—

“We were partly national, partly federal. The proportional representation in the first branch was conformable to the national principle and would secure the large states against the small. An equality of voices was conformable to the federal principle and was necessary to secure the small states against the large. He trusted on this middle ground, a compromise would take place. He did not see that it could, on any other, and if no compromise should take place, our meeting would not only be in vain, but worse than in vain.”<sup>45</sup>

A vote on Mr. Ellsworth's motion resulted—Connecticut, New York, New Jersey, Delaware and Maryland, ay, 5; Massachusetts, Pennsylvania, Virginia, North Carolina and South Carolina, no, 5; Georgia, divided, 1.<sup>46</sup> Mr. Sherman said:—

“We are now at a full stop; and nobody, he supposed, meant that we should break up without doing something. A committee he thought most likely to hit on some expedient.”

Mr. Williamson, of North Carolina, said:—

“If we do not concede on both sides, our business must soon be at an end. He approved of the commitment. On

<sup>44</sup> Elliott, V., 255.

<sup>45</sup> Ibid., 260.

<sup>46</sup> Ibid., 270.

the question for committing it 'to a member from each state,' the motion was carried ten to one—Pennsylvania alone voting 'no.' ”<sup>47</sup>

This committee brought in a report, July 5, recommending, that the first branch should be organized on the principle adopted in the Committee of the Whole, and that all bills for raising or appropriating money should originate in that branch, and

2. That, in the second branch, each state could have an equal vote.

The debate began all over again, the same arguments being used *pro* and *con* as before.<sup>48</sup> But on July 7, the 2d recommendation was carried, Connecticut, New York, New Jersey, Delaware, Maryland and North Carolina voting aye, 6; Pennsylvania, Virginia, South Carolina, no, 3; Massachusetts and Georgia, divided, 2.<sup>49</sup>

This point having been established, debate began on the basis of apportionment for the first, or popular, branch.

Mr. Patterson, of New Jersey:—

“could regard negro slaves in no other light, but as property. They are no free agents, have no personal liberty, no faculty of acquiring property, but on the contrary are themselves property, and, like other property, entirely at the will of the master. Has a man in Virginia a number of votes, in proportion to the number of his slaves? If negroes are not represented in the states to which they belong, why should they be represented in the general government?”<sup>50</sup>

Mr. Butler and Mr. Pinckney, both from South Carolina, insisted that blacks be included in the rule of representation *equally* with the whites; and for that purpose moved that the words “three-fifths” be struck out.

Mr. Gorham, of Massachusetts:—

“This ratio was fixed by Congress as a rule of taxation. Then it was urged, by the delegates representing the states having slaves, that the blacks were still more inferior to

<sup>47</sup>Elliott, V., 273.

<sup>48</sup>Ibid., 289.

<sup>49</sup>Ibid., 274 to 285.

<sup>50</sup>Ibid., 286.

freemen. At present, when the ratio of representation is to be established, we are assured that they are equal to freemen."

Mr. Mason, of Virginia:—

"Could not agree to the motion, notwithstanding it was favorable to Virginia, because he thought it unjust. It was certain that the slaves were valuable, as they raised the value of land, increased the exports and imports, and, of course, the revenue; would supply the means of finding and supporting an army; and might, in cases of emergency, become themselves soldiers. As in these important respects they were useful to the community at large, they ought not to be excluded from the estimate of representation. He could not, however, regard them as equal to freemen, and could not vote for them as such."

Mr. Williamson, of North Carolina:—

"reminded Mr. Gorham, that, if the Southern States contended for the inferiority of blacks to whites when taxation was in view, the Eastern States, on the same occasion, contended for their equality. He did not, however, either then or now, concur in either extreme, but approved of the ratio of three-fifths."

Mr. Butler's motion to strike out three-fifths was lost—Delaware, South Carolina and Georgia voting aye, 3; Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, no, 7; New York, not on the floor.<sup>11</sup>

"On the question on the first clause of Mr. Williamson's motion, as to taking a census of the *free* inhabitants, it passed in the affirmative,—Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, aye 6; Delaware, Maryland, South Carolina, Georgia, no, 4.

The next clause, as to three-fifths of the negroes, being considered:—

Mr. KING, [Mass.] being much opposed to fixing numbers as the rule of representation, was particularly so on account of the blacks. He thought the admission of them along with whites at all would excite great discontents among the states having no slaves."<sup>12</sup>

<sup>11</sup> Elliott, V., 296.

<sup>12</sup>Ibid., 300.

"MR. WILSON did not well see on what principle the admission of blacks, in the proportion of three fifths, could be explained. Are they admitted as citizens—then why are they not admitted on an equality with white citizens? Are they admitted as property—then why is not other property admitted into the computation? These were difficulties, however, which he thought must be overruled by the necessity of compromise."

"MR. GOUVERNEUR MORRIS was compelled to declare himself reduced to the dilemma of doing injustice to the Southern States, or to human nature, and he must therefore do it to the former; for he could never agree to give such encouragement to the slave trade as would be given by allowing them a representation for their negroes; and he did not believe those states would ever confederate on terms that would deprive them of that trade."

On the question for agreeing to include three-fifths of the blacks, Connecticut, Virginia, North Carolina, Georgia, aye, 4; Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, no.<sup>55</sup>

On July 12, Gouverneur Morris, of Pennsylvania, moved to add to the clause, empowering the legislature to vary the representation according to the principles of wealth and numbers of inhabitants, a proviso "that taxation shall be in proportion to representation."<sup>56</sup> As he had been consistently opposed to the blacks being enumerated in apportioning representation, and as he was familiar with the opposition of Southern States to their being enumerated as a basis of taxation, it must be inferred that he thought, by coupling taxation with representation, he would induce the Southern delegates to abandon their demand that the slaves, or any portion of them, should be counted in apportioning representation. He must have been surprised at the alacrity with which Butler and Pinckney, both of South Carolina, accepted his amendment.

Mr. Butler contended, again, that representation should be according to the full number of inhabi-

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<sup>55</sup> Elliott, V., 301.

<sup>56</sup> Ibid., 302.



tants, including all the blacks, admitting the justice of Mr. Gouverneur Morris's motion.

Gen. Pinckney liked the idea. He thought it so just that it could not be objected to; \* \* \* He was alarmed at what was said yesterday, concerning the negroes. He was now alarmed again at what had been thrown out concerning the taxing of exports. \* \* \* He hoped a clause would be inserted in the system, restraining the legislature from taxing exports.

Mr. Morris, still believing that future legislatures might reduce, or do away entirely with, the enumeration of blacks as a basis of taxation and representation, was induced to make his motion still more acceptable by inserting the word "direct" before "taxation" and thereupon his motion passed *nem. con.* as follows: "provided always direct taxation ought to be proportioned to representation." He did not foresee, what actually came to pass, that *direct* taxation was almost never resorted to, by Congress, and that the slave states got the benefit of increased representation based on three-fifths of their slaves, without any corresponding obligation. Direct taxes were "laid on" the respective States by Acts of Congress, dated August 2, 1813, and January 9, 1815, to pay the extraordinary expenses attending and following the War of 1812. Ohio's quota under the first act was \$88,527.62, (12 O.L., 3-4); under the second, \$175,000 (13 O.L., 304-5) and \$200,000 (14 O.L., 185-6).

Some of the delegates from Southern States evidently shared Morris's belief.

Mr. Davie, of North Carolina, who was seldom heard in the Convention, said:—

"it was high time now to speak out. He said that it was meant by some gentlemen to deprive the Southern States of any share of representation for their blacks. He was sure that North Carolina would never confederate on any terms that did not rate them at least as three-fifths. If the Eastern

States meant, therefore, to exclude them altogether, the business was at an end.”<sup>56</sup>

Mr. Randolph was not satisfied with the motion:—

“the ingenuity of the legislature may evade or pervert the rule, so as to perpetuate the power where it shall be lodged in the first instance. \* \* \* He urged strenuously, that express security ought to be provided for including slaves in the ratio of representation. \* \* \* It was perceived that the design was entertained by some of excluding slaves altogether; the legislature therefore ought not to be left at liberty.”<sup>57</sup>

Mr. Pinckney moved to amend Mr. Randolph’s motion so as to make “blacks equal to the whites in the ratio of representation.” Playing on Morris’s hopes, he added, “It will also be politic with regard to the Northern States as taxation is to keep pace with representation.”

Mr. Pinckney’s motion, for rating blacks as equal to whites was lost—only South Carolina and Georgia voting for it.<sup>58</sup>

On the question of the whole proposition, as proportioning representation to direct taxation, and both, to the white and three-fifths of the black inhabitants, and requiring a census within six years and within every ten years thereafter,—

Connecticut, Pennsylvania, Maryland, Virginia, North Carolina and Georgia voted aye, 6; New Jersey and Delaware, no, 2; Massachusetts and South Carolina divided.<sup>59</sup>

The whole subject was opened up again on July 13th (a day to be remembered), by a motion of Mr. Randolph to reconsider. Mr. Butler said:—

“The security the Southern States want is, that their negroes may not be taken from them, which some gentlemen within or without doors have a very good mind to do.”<sup>60</sup>

Mr. Madison said:—

“It seemed now to be pretty well understood, that the real difference lay, not between the large and small, but between

<sup>56</sup> Elliott, V., 302-3.

<sup>57</sup> Ibid., 305-6.

<sup>58</sup> Ibid., 303-4.

<sup>59</sup> Ibid., 309.

<sup>60</sup> Ibid., 305.

the northern and southern states. The institution of slavery, and its consequences, formed the line of discrimination."<sup>60</sup>

July 16, on the question for agreeing to the whole report, as amended, and including the equality of votes in the second branch, it passed in the affirmative.

Connecticut, New Jersey, Delaware, Maryland, North Carolina, aye, 5; Pennsylvania, Virginia, South Carolina, Georgia, no, 4; Massachusetts, divided.<sup>61</sup>

Mr. Randolph thought, in view of the fact that the small states persisted in demanding an equal vote in all cases; that they have succeeded in obtaining it; and that New York, if present, would probably be on the same side.

"that we were unprepared to discuss the subject further. It will probably be in vain to come to any final decision, with a bare majority on either side. For these reasons he wished the Convention to adjourn, that the large states might consider the steps proper to be taken, in the present solemn crisis of the business."

Mr. Patterson thought, with Mr. Randolph, that:—

"it was high time for the Convention to adjourn; that the rule of secrecy ought to be rescinded; and that our constituents should be consulted. No conciliation could be admissible, on the part of the smaller states, on any other ground than that of an equality of votes in the second branch. If Mr. Randolph would reduce to form his motion to adjourn *sine die* he would second it with all his heart."

Mr. Broome, of Delaware—

"thought it his duty to declare an opinion against an adjournment *sine die*, as had been urged by Mr. Patterson. Such a measure, he thought, would be fatal. Something must be done by the convention, though it should be by a bare majority."

Mr. Rutledge, of South Carolina, could see no need of an adjournment. The little states were fixed. They had repeatedly and solemnly declared

<sup>60</sup> Elliott, V., 315.

<sup>61</sup> Ibid.; 316.

themselves to be so. All that the large states, then, had to do was, to decide whether they would yield or not. <sup>62</sup>

July 23d, John Langdon and Nicholas Gillman, from New Hampshire, took their seats. <sup>63</sup> Mr. Gerry, of Massachusetts, moved that the proceedings of the Convention for the establishment of a national government (except the part relating to the executive) be referred to a committee to prepare and report a constitution conformable thereto.

Gen. Pinckney reminded the Convention that if the committee should fail to insert some security to the Southern States against an emancipation of slaves and taxes on exports (cotton, tobacco and sugar) he should be bound by duty to his State to vote against the report.

The appointment by a committee as moved by Mr. Gerry, was agreed to *nem con.* <sup>64</sup>

The next day Mr. Morris said naively:—

“he hoped the committee would strike out the whole of the clause proportioning direct taxation to representation. He had only meant it as a bridge to assist us over a certain gulf. The object was to lessen the eagerness on one side for, and the opposition on the other to, the share of representation claimed by the Southern States on account of the negroes.”

On a ballot for a committee to report a Constitution conformable to the resolutions passed by the Convention, the members chosen were—Mr. Rutledge, of South Carolina, Mr. Randolph, of Virginia, Mr. Gorham, of Massachusetts, Mr. Ellsworth, of Connecticut, and Mr. Wilson, of Pennsylvania. <sup>65</sup>

The committee reported on August 6. The number of representatives at the first formation of the House, from each State, was definitely fixed. The legislature was empowered to regulate the number

<sup>62</sup> Elliott, V., 317-8.

<sup>63</sup> Ibid., 357.

<sup>64</sup> Ibid., 351.

<sup>65</sup> Ibid., 362-3.

of representatives by the number of inhabitants, according to provisions hereinafter made. The three-fifths rule as to slaves was made the basis of apportionment for direct taxation. It was provided that—

“No tax or duty shall be laid by the legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited.”

Which sanctioned the slave trade and made it free of duties or tax of any kind. \* \*

Up to this time there had been nothing said about run-a-way slaves, or “fugitives from labor” and the committee’s report was silent on that subject.

Mr. Williamson, of North Carolina, moved to strike out “according to the provisions hereinafter made” and to insert the words “according to the rule hereafter to be provided for direct taxation.”

Carried by the votes of New Hampshire, Connecticut, Pennsylvania, Maryland, Massachusetts, Virginia, North Carolina, South Carolina and Georgia, 9; New Jersey and Delaware, no, 2.

Mr. King said:—

“The admission of slaves was a most grating circumstance to his mind and he believed would be so to a great part of the people of America. \* \* \* In two great points, the hands of the legislature were absolutely tied. The importation of slaves could not be prohibited. Exports could not be taxed. Is this reasonable? \* \* \* If slaves are to be imported shall not the exports produced by their labor supply a revenue the better to enable the general government to defend their masters? \* \* \* At all events either slaves should not be represented, or exports should be taxable.” \* \*

Mr. Sherman, of Connecticut, regarded the slave trade as iniquitous; but the point of representation having been settled, after much difficulty and delibera-

\* Elliott, V., 376-7, 379.

\* Ibid., 391-2.

tion, he did not think himself bound to make opposition. <sup>68</sup>

Mr. Gouverneur Morris moved to insert "free" before the word "inhabitants." Much, he said, would depend on this point.

"he never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of heaven on the States where it prevailed. \* \* \* The moment you leave the Eastern States, and enter New York, the effects of the institution become visible. \* \* \* Proceed southwardly and every step you take, through the great regions of slaves, presents a desert increasing with the increasing proportion of these wretched beings. Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them citizens, and let them vote. Are they property? Why, then, is no other property included? The houses in this city (Philadelphia) are worth more than all the wretched slaves who cover the rice swamps of South Carolina. \* \* \*

"Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the general government can stretch its hand directly into the pockets of the people, scattered over so vast a country. They can only do it through the medium of exports, imports, and excises. For what then are all the sacrifices to be made? He would sooner submit himself to a tax for paying for all the negroes in the United States, than saddle posterity with such a Constitution." <sup>69</sup>

Mr. Morris's eyes were opened at last, but too late. The Convention having come so near to an agreement, would refuse to throw aside their work and begin all over again. His motion to insert "free" before "inhabitants" was defeated 1 to 10, Pennsylvania, itself, voting no. <sup>70</sup>

Messrs. Morris, Madison, Wilson, and Mercer, of Maryland, argued that the legislature should be allowed to tax exports. Messrs. Mason, Williamson, Gerry, that it should not. Mr. Sherman thought that to examine and compare the States in relation to imports and exports, would be opening a boundless

<sup>68</sup> Elliott, V., 392.

<sup>69</sup> Ibid., 392-3.

<sup>70</sup> Ibid., 394.

field. He thought the matter had been adjusted and that imports were to be subject, and exports not, to be taxed.<sup>71</sup>

In other words, Mr. Sherman was weary of interminable discussions and anxious to reach a speedy conclusion, and he undoubtedly spoke for a large majority of the delegates. The provision that no tax should be laid on exports was carried by votes of Massachusetts, Connecticut, Maryland, Virginia (Gen. Washington and Mr. Madison, no), North Carolina, South Carolina and Georgia, 7; New Hampshire, New Jersey, Pennsylvania and Delaware, no, 4.

Luther Martin, of Maryland, proposed to vary the report so as to allow a prohibition or tax on the importation of slaves.

"In the first place, as five slaves are to be counted as three freemen in the apportionment of representatives, such a clause would leave an encouragement to this traffic. In the second place, slaves weakened one part of the Union, which the other parts were bound to protect; the privilege of importing them was therefore unreasonable. And in the third place, it was inconsistent with the principles of the revolution, and dishonorable to the American character, to have such a feature in the Constitution."

Mr. Rutledge, of South Carolina, said, *inter al*:—

"Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is whether the Southern States shall or shall not be parties to the Union."

Mr. Pinckney:—

"South Carolina can never receive the plan if it prohibits the slave trade. In every proposed extension of the powers of Congress, that State has expressly and watchfully excepted that of meddling with the importation of negroes. If the States be all left at liberty on this subject, South Carolina may perhaps, by degrees, do of herself what is wished, as Virginia and Maryland already have done."<sup>72</sup>

<sup>71</sup> Elliott, V., 432-3.

<sup>72</sup> Ibid., 456-7.

Mr. Sherman, speaking for himself and the majority of delegates, as before, was for leaving the clause as it stands. He disapproved of the slave trade, yet, as the States were now possessed of the right to import slaves \* \* \* and as it was expedient to have as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed, that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees complete it. He urged on the Convention the necessity of despatching its business.

Col. Mason, of Virginia, vigorously denounced slavery and added:—

“Maryland and Virginia have already prohibited the importation of slaves expressly. North Carolina had done the same in substance. All this would be vain, if South Carolina and Georgia be at liberty to import. \* \* \* Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of heaven on a country. As nations cannot be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects, Providence punishes national sins by national calamities.”<sup>73</sup>

Mr. Ellsworth, of Connecticut, said, *inter al.*—

“Let us not intermeddle. As population increases, poor laborers will be so plenty as to render slaves useless. Slavery in time will not be a speck in our country. Provision is already made in Connecticut for abolishing it. And the abolition has already taken place in Massachusetts.”<sup>74</sup>

Mr. Pinckney said, *inter al.*—

“If slavery is wrong, it is justified by the example of all the world. \* \* \* In all ages, one-half of mankind have been slaves. If the Southern States were let alone, they

<sup>73</sup> Elliott, V., 457-8.

<sup>74</sup> Ibid., 458.



will probably of themselves stop importations. He would himself, as a citizen of South Carolina, vote for it. An attempt to take away the right, as proposed, will produce serious objections to the Constitution, which he wished to see adopted."<sup>75</sup>

Gen. Pinckney said, *inter al.*—

"South Carolina and Georgia cannot do without slaves. As to Virginia she will gain by stopping the importations. Her slaves will rise in value, and she has more than she wants. It would be unjust to require South Carolina and Georgia to confederate on such unequal terms. \* \* \* He admitted it to be reasonable, that slaves should be dutied like other imports; but should consider a rejection of the clause as an exclusion of South Carolina from the Union."

Mr. Wilson observed:—

"if South Carolina and Georgia were themselves disposed to get rid of the importation of slaves in a short time, as had been suggested, they would never refuse to unite because the importation might be prohibited. As the section now stands, all articles imported are to be taxed. Slaves alone are exempt. This is, in fact, a bounty in that article."<sup>76</sup>

Mr. King, of Massachusetts, took the same view.

Mr. Langdon, of New Hampshire, was strenuous for giving the power to the general government.

"He could not with a good conscience, leave it with the States, who could then go on with the traffic, without being restrained by the opinions here given, that they will themselves cease to import slaves."

Mr. Rutledge said:—

"If the convention thinks that North Carolina, South Carolina and Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those States will never be such fools as to give up so important an interest."<sup>77</sup>

Mr. Sherman said it was better to let the Southern States import slaves than to part with them if

<sup>75</sup> Elliott, V., 458-9.

<sup>76</sup> Ibid., 459.

<sup>77</sup> Ibid., 460.

they made that a *sine qua non*. He was opposed to a tax on slaves imported, as making the matter worse, because it implied they were property.

Mr. Randolph was for committing, in order that some middle ground might, if possible, be found.

On the question for committing: Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina and Georgia, aye, 7; New Hampshire, Pennsylvania, and Delaware, no, 3; Massachusetts absent.<sup>78</sup>

August 24, the committee of eleven reported, recommending the following substitute:

"The migration or importation of such persons as the several States, now existing, shall think proper to admit, shall not be prohibited by the legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation at a rate not exceeding the average of the duties laid on imports."<sup>79</sup>

Gen. Pinckney moved to strike out 1800 and insert 1808. Mr. Madison opposed the motion but it was carried 7 to 4.

Weariness was becoming more and more apparent.

Gouverneur Morris was for making the clause read at once:

"The importation of slaves into North Carolina, South Carolina and Georgia shall not be prohibited, etc."

Col. Mason was not against using the term "slaves," but against naming North Carolina, South Carolina and Georgia, lest it should give offence to the people of those States!

Mr. Sherman liked a description better than the terms proposed, which had been declined by the old Congress and were not pleasing to some people.

Mr. Clymer, of Pennsylvania, concurred with Mr. Sherman.

The first part of the report was then agreed to, amended, as it now stands in the Constitution.<sup>80</sup>

<sup>78</sup> Elliott, V., 461.

<sup>79</sup> Ibid., 470-1.

<sup>80</sup> Ibid., 477.

After some further debate it was finally agreed *nem. con.* to make the last clause read,—“but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.”<sup>81</sup>

And now, after three months of strenuous debate over almost every line of the Constitution, which was carefully scrutinized before it was admitted in its final shape, on August 29,—

Mr. Butler, of South Carolina, moved to insert after the clause respecting fugitives from justice:—

“If any person bound to service or labor in any of the United States shall escape into another state, he or she shall not be discharged from such service or labor, in consequence of any regulations subsisting in the State to which they escape, but shall be delivered up to the person justly claiming their service or labor.”<sup>82</sup>

And it was agreed to at once—no one objecting!

The springing of this motion just as the goal was in sight, for which all had been striving, and when all were tired out, was a masterpiece of parliamentary strategy. Cotesworth Pinckney, in urging ratification of the Constitution by South Carolina, said:

“By this settlement we have secured an unlimited importation of negroes for twenty years. The general government can never emancipate them, for no such authority is granted, and it is admitted on all hands that the general government has no powers but what are expressly granted by the constitution. We have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms in our power for the security of this species of property.”<sup>83</sup>

South Carolina ratified the Constitution May 23, 1788, but with the significant understanding that Congress “ought never to impose direct taxes, but where the moneys arising from the duties, imports, and excise are insufficient for the public exigencies,

<sup>81</sup> Elliott, V., 478.

<sup>82</sup> Ibid., 492.

<sup>83</sup> Ibid., 286.

*nor then until* Congress shall have made a requisition upon the States to assess, levy, and pay, their respective proportions of such requisitions.”<sup>84</sup>

On July 13, 1787, heretofore noted as an important date,<sup>85</sup> the Confederate Congress, then in session at New York, passed “AN ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY NORTHWEST OF THE RIVER OHIO.” This Ordinance contained the following important clauses:

SEC. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable unless by common consent, towit:—

\* \* \* \*

#### ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury.

\* \* \* \*

No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land.”

\* \* \* \*

#### ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: “*Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.”<sup>86</sup>

Here will be observed the same hostility to the extension of slavery to the territories, or new States to be formed therefrom; the same consideration for vested rights, limited, however, to persons living in the original thirteen States; and the same unwillingness to have slaves or slavery mentioned by name

<sup>84</sup> Elliott, I., 325.

<sup>85</sup> *Supra*, p. 33.

<sup>86</sup> *Charters and Constitutions*, Vol. I., 431-32.

in a document of historical importance, that we noted in the proceedings of the Constitutional Convention—an entirely different body.

It is probable that the discussions, attending the passage of this Ordinance through Congress, were what caused the expressions of apprehension—real or pretended—made by General Pinckney, Randolph and Butler in the Constitutional Convention on the 12th and 13th of July.<sup>87</sup>

April 30, 1802, Congress passed an act to enable the people of the eastern division of the Northwestern Territory to form a constitution and State government, and for the admission of such State into the Union. The convention, assembled at Chillicothe for this purpose, was composed of thirty-five representatives, only two of whom were from the Western Reserve.<sup>88</sup> The boundaries of the State were fixed by the enabling act. The only other restriction upon the powers of the Convention to adopt such a constitution as might be agreeable to the majority is found in Section 5:—

“provided the same shall be republican, and not repugnant to the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio.”<sup>89</sup>

This shows that the Seventh Congress of the United States was just as much opposed to the extension of slavery to new States as the Continental Congress which passed the Ordinance for the Northwestern Territory, nearly fifteen years before.

The Constitution, adopted by the Ohio Convention, November 29, 1802, did two things which the Convention which framed the Federal Constitution was unable to do: 1. It apportioned representation

<sup>87</sup> *Supra*, p. 33.

<sup>88</sup> *Charters and Constitutions*, Vo. II., p. 1453.

<sup>89</sup> *Charters and Constitutions*, Vol II., p. 1454.

among the several counties, on the basis of "white male inhabitants;"<sup>90</sup> 2. It provided that:

"There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes whereof the party shall have been duly convicted; \* \* \* Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in the State, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships."<sup>91</sup>

Article VIII of the Constitution further provided:

SEC. 8. That the right of trial by jury shall be inviolate.

SEC. 9. That no power suspending the laws shall be exercised, unless by the legislature.

SEC. 12. That all persons shall be bailable by sufficient sureties, unless for capital offenses, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion the public safety may require it."<sup>92</sup>

February 19, 1803, Congress passed an "ACT RECOGNIZING THE STATE OF OHIO" and provided:—

"That all the laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of Ohio, as elsewhere within the United States."<sup>93</sup>

## THE FUGITIVE SLAVE LAW OF 1793.

After the Constitutional Convention had completed its labors, and the delegates of a majority of the States had signed the Constitution and transmitted copies to the Confederate Congress and the Governors of the thirteen States for ratification, things went on pretty much as before, as regards fugitive slaves. If an owner pursued his run-away slave promptly, and caught him before he had gained

<sup>90</sup> Article I, Sec. 2, of the Constitution. *Charters and Constitutions*, II., 1455.

<sup>91</sup> Article VIII, Sec. 2. *Ibid.* p. 1461.

<sup>92</sup> Article VIII, Sec. 2. *Ibid.* p. 1462.

<sup>93</sup> *Charters and Constitutions*, Vol. II., p. 1464.

a settled residence in any northern community, he generally had little or no difficulty in carrying him back. There was, however, in the minds of the people of the free States an unwritten statute of limitation which barred the claim of a dilatory owner; and a slave who had settled and proved himself a useful and law abiding resident of such a community could not, as a rule, be retaken without considerable opposition.

So, on February 12, 1793, Congress passed "*An act respecting fugitives from justice, and persons escaping from the service of their masters,*"<sup>••</sup> which remained in force, without alteration or amendment, for more than fifty-seven years. It was, by resolutions of the Ohio Legislature, printed, with the Constitution and other laws of that State, in volumes 3, 8, 17, 18 and 29, so as to advise all citizens of Ohio that that particular statute was part of the law of the land.

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•• Public Statutes at Large of the United States, published by Little & Brown, Boston, 1845, Vol. I, 302 to 305 incl. Sections 3 and 4 read as follows:

Sec. 3. *And be it also enacted*, That, when a person held to labour in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said States or territory, the person to whom such labour or service may be due, his agent or attorney is hereby empowered to seize or arrest such fugitive from labour, and to take him or her before any judge of the circuit or district courts of the United States residing, or being within the State, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labour to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labour to the state or territory from which he or she fled.

Sec. 4. *And be it further enacted*, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labour, or shall rescue such fugitive from such claimant, his agent or attorney, when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person *after notice* that he or she was a fugitive from labour, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same: saving moreover to the person claiming such labour or service, his right of action for or on account of the said injuries or either of them.

APPROVED: February 12, 1793.

For the first thirty years, there was little litigation over escaped slaves, or the cases were considered as too trivial to report. Pennsylvania, being almost surrounded by States where negroes were still held in bondage,—New York, New Jersey, Delaware, Maryland, and the “Pan handle” of Virginia—had the most troublesome experience of any, down to 1840. The disposition of the Courts, at first, was to construe the statute strictly; and persons accused of obstructing claimants often escaped conviction, or punishment, on some technicality. A bad statute may remain on the books a long time if no general attempt is made to enforce it.

There were objections to this law, both on the part of slave-owners and those who sympathized with the blacks. The former thought it was drawn too loosely and could be violated in many ways with impunity; the latter, that it was drawn so as to give a man, claiming ownership, summary possession of the alleged fugitive upon making, or producing an *ex parte* affidavit, and without any fair judicial test as to the status of the negro claimed. Where two different persons laid claim to the same piece of property the Constitution and laws provided for a trial by jury. The question of ownership could be raised in a suit against a person obstructing or hindering a claimant in retaking his slave, and the defendant in such a suit was entitled to a jury trial. But if there was but one claimant for a negro, the latter, being considered nothing but property, was given no chance to set up and prove a claim to himself and no right to a jury trial.

Three cases decided in 1822, 1823 and 1824, by Bushrod Washington, a Justice of the United States Supreme Court and a nephew of George Washington, show a disposition to construe the law strictly. In the first,<sup>95</sup> a suit by a claimant, who had seized a

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<sup>95</sup> Hill v. Low, 4 Wash.; 327.



negro and was taking him before a magistrate, against a person who objected to the proceeding and by his talk and actions caused an assemblage of people forcing the claimant to go out of his course and thus give the negro an opportunity to escape;—Judge Washington held; (1) that the claimant must prove to the satisfaction of the jury that he was the owner of the negro in question, or that he was the agent of the real owner, or he could not recover; and (2) that it was not a violation of the statute to hinder or obstruct the owner or agent in taking the alleged fugitive before a magistrate *after* the arrest, unless the negro escaped. A judgment in favor of the claimant for \$500 damages was reversed.

In the second<sup>66</sup> he denied the application for a certificate of ownership to a resident of Charleston, South Carolina, who had brought a slave with him to Philadelphia, kept him there as a servant for over ten months and then left him there when he returned to Charleston. He held the slave was not a *fugitive* from one State to another within the meaning of the act, and the owner could not reclaim him as such. The laws of Pennsylvania alone applied to the case, and under those laws the alleged fugitive was free.

In the third case<sup>67</sup> the claimant of an alleged fugitive slave, Tom, after seizing him, taking him before a magistrate and securing a certificate authorizing him to remove Tom to Maryland, delivered him to a jailer at Doylestown, Pa., for safe keeping. The jailer took him into the jail yard surrounded by a wall nineteen feet high and locked him in there with other prisoners, while he went into the house to get supper. Tom's fears must have lent him wings, for he got over that nineteen foot wall and escaped. The claimant sued the jailer for damages for allowing the escape, and the case was tried to a

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<sup>66</sup> Ex parte Simmons, 4 Wash., 396.

<sup>67</sup> Worthington v. Preston, 4 Wash., 461.

jury. Judge Washington charged the jury that the authority of the magistrate was limited to examining into the claim of the alleged owner and to granting him a certificate of ownership if satisfied as to the fact. The certificate was not a warrant for committing the fugitive to jail and the jailer was under no legal obligation to receive him, by virtue of such certificate.

The jailer was not liable as a bailee unless guilty of gross negligence. There was a verdict for the defendant. The judge said *inter al*;—

“An attempt has been made in congress to correct these glaring defects in the act, without which correction the act is found to be practically of little avail; but the attempt has not as yet succeeded. As it now stands, the magistrate had no authority to command the gaoler in this case to receive and safe keep the fugitive.”

But, as cotton, rice, tobacco, and sugar crops became more profitable, the slaves, by whose labor they were raised, became more valuable. While a slave, worth \$200 or \$300 at most, might not be pursued very energetically, one worth \$1,000 or \$1,200 was much more liable to seizure by the owner, or by any one tempted by the prospect of a reward.

The rise in price of negroes was largely due to the suppression of the African slave trade, and the consequent demand for native-born negroes, which could only be met by the border states. The sale “down South” of negroes raised in Maryland, Virginia or Kentucky, proved a very convenient way of securing a little ready cash. The very thought of being sent to the rice swamps of South Carolina, the canebrakes of Louisiana, or the cotton fields of the Gulf States, filled the negroes with terror and the number of fugitives increased. Their prospective sufferings, if caught, appealed to the sympathies of humane men in the north, and there was a growing disposition to aid their escape. The resentment of slave catchers, cheated of their prey, led to more

frequent prosecutions of those who in any way interfered with the chase. The courts became less rigorous in their construction of the law and more inclined to favor the claimant. Conviction became more certain and penalties more severe. This, however, only increased the hatred of slavery among the masses in every free community, and we read in the charges of judges to juries, impaneled to try such cases, apologies for the law which the Courts must nevertheless enforce, and admonitions to suppress feelings and conscientious scruples which the judges confessed were quite natural and right.

Chief Justice Tilghman, of the Supreme Court of Pennsylvania, said to be one of the most humane of men, told the jury in *Wright v. Deacon*, 5 Serg. & Rawle, 63,

“Whatever may be our private opinions on the subject of slavery, it is well known that our Southern brethren would not have consented to have become parties to a constitution under which the United States have enjoyed so much prosperity, unless their property in slaves had been secured.”

Mr. Justice Baldwin, of the United States Supreme Court, in the case of *Johnson v. Tompkins et al*, 1 Baldwin, 571, tried in the Circuit Court, said to the jury:—

“It is not permitted to you or us to indulge our feelings of abstract right on these subjects; the law of the land recognizes the right of one man to hold another in bondage, and that right must be protected from violation, although its existence is abhorrent to all our ideas of natural right and justice.

“As a consequence of this right of property, the owner may keep possession of his slave; if he absconds, he may retake him by pursuit into another State; \* \* \* he may arrest him by the use of as much force as is necessary to effect his reclamation; \* \* \* taking care to commit no breach of the peace against third persons. But it is no breach of the peace to use as much force or coercion towards the fugitive as suffices for his security, as without such force no slave could be retaken, without his consent.

If this is unjust and oppressive, the sin is on the heads of the makers of laws which tolerate slavery, or in those who have the power, in not repealing them.”

The jury in this case brought in a verdict for \$4,000 damages against persons who had obstructed the reclamation of Jack, who ran away from his owner's place near Princeton, N. J., and crossed the Delaware into Pennsylvania, and the Judge entered a judgment on the verdict, although the owner had succeeded, after some difficulty, in carrying off his slave.

Mr. Justice McLean, in overruling a motion for a directed verdict for defendant at the close of plaintiff's testimony in *Jones v. Van Zandt*, 2 McLean, 596, said:—

"The counsel for the defendant admit that, in a given case, the plaintiff has a remedy under the act of Congress. If this be so what have we to do with slavery in the abstract? It is admitted by all who have examined the subject, to be founded in wrong, in oppression, in power against right. But in this case we have only to inquire whether the acts of the defendant, as proved under the law of Congress, subject him to a claim for indemnity by the plaintiff."

The case was then argued and submitted to the jury who brought in a verdict for the plaintiff and assessed his damages, for the escape of one slave, at \$1,200.

On a motion for a new trial the Judge gave an elaborate opinion overruling the motion. Among other things, he said:—

"I was not prepared to hear, in a Court of Justice, the broad ground assumed as was assumed in this case before the jury, that a man, in the exercise of what he conceives to be a conscientious duty, may violate the laws of the land. That no human laws can justly restrain the acts of men, who are impelled by a sense of duty to God and their fellow creature. We are not here to deal with abstractions. We cannot theorize upon the principles of our government, or of slavery. The law is our only guide. \* \* \* If the law be wrong in principle or oppressive in its exactions, it should be changed in a constitutional mode." (Ib. p. 616.)

In *Morris v. Newton et al.*, 5 McLean, 92, known as the "South Bend Rescue Case," four negroes who

frequent prosecutions of those who in any way interfered with the chase. The courts became less rigorous in their construction of the law and more inclined to favor the claimant. Conviction became more certain and penalties more severe. This, however, only increased the hatred of slavery among the masses in every free community, and we read in the charges of judges to juries, impaneled to try such cases, apologies for the law which the Courts must nevertheless enforce, and admonitions to suppress feelings and conscientious scruples which the judges confessed were quite natural and right.

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"As a consequence of this right of property, the owner may keep possession of his slave; if he absconds, he may retake him by pursuit into another State; if he is taken, he may reclaim him by the use of as much force as may be necessary for his reclamation; \* \* \*

of the peace against those who would disturb the peace to use as much force as suffices for the purpose; and no slave could be reclaimed without the use of force.

If this is unjust, the makers of the law have the power to

## THE FUGITIVE SLAVE LAW OF 1850

The jury in this case rendered a verdict of \$4,000 damages against persons who had interfered with the reclamation of JAMES W. WALKER from the owner's place near Princeton, N. J., and who had taken him from Delaware into Pennsylvania. The jury also rendered a judgment on the verdict, although the verdict succeeded, after some difficulty in reaching a decision on the slave.

Mr. Justice McLean, in rendering the verdict, directed a directed verdict for defendant at the plaintiff's testimony in *James v. Walker*, 1850, 100 U.S. 596, said:—

"The counsel for the defendant in this case, the plaintiff has a strong case. If this be so what have we to do? It is admitted by all who are present that it is founded in wrong, and is a violation of the law. But in this case we are not to be guided by the defendant's argument, but by the subject him to a slave. In the other, the same

The case was decided by the jury, who found the defendant liable, and assessed the damages at \$1,200.

On a motion for a new trial, the court refused, and the case was affirmed. The court said: "The States should

"The States should not be guided by the defendant's argument, but by the subject him to a slave. In the other, the same

"The States should not be guided by the defendant's argument, but by the subject him to a slave. In the other, the same

turned a verdict for the plaintiff, for \$2,850 in (ibid. p. 106.)

had been living near Cassopolis, Michigan, for nearly two years, were captured Sept. 27, 1849, by the claimant and a party he had organized for that purpose, who placed them in a wagon and started south with them, without taking them before any judge or magistrate or securing a certificate of ownership. Passing through South Bend, Indiana, they halted a mile or two from the village for refreshments and were overtaken by the sheriff of the county who had a writ of *habeas corpus* to serve on the claimant. A crowd soon gathered numbering more than one hundred and forty, and the claimant returned with the negroes to South Bend. The judge, before whom the negroes were brought, discharged them, on the ground that the claimant had no right to take them out of the State where the arrest was made, but should have taken them before some judicial officer of that State or of the United States. Immediately after their discharge the claimant arrested them again under a writ issued under a State law of Indiana. The crowd had by this time become highly excited and to prevent a collision it was agreed that the negroes should be placed in jail for safe keeping. The next day (Saturday) the streets were crowded with people, the greater part of whom were colored. Some had firearms and almost all had clubs. Many of them came from Cass county, Michigan.

On Monday another writ of *habeas corpus* was allowed by the judge, and the plaintiff under the circumstances declined any further attempt to take the fugitives but said that his rights had been violated and he should claim compensation from those who had injured him. The fugitives were discharged by the judge and went off surrounded by a great number of colored persons. Suit was brought in the United States Court against a number of citizens, including the judge who discharged the fugitives. On the trial of the case, Justice McLean charged the jury *inter al.*,—

"The legal custody of the fugitives by the master being admitted as stated in the return on the habeas corpus, every step taken subsequently was against law and in violation of his rights. I deem it unnecessary to inquire into the procedure subsequently. It was wholly without authority. The forms of law assumed afford no protection to any one. The slaves were taken from the legal custody of their master, and he thereby lost their services." (Ibid. p. 101.)

"Every person of the large crowd in the court-house, or out of it, who aided, by words or actions, the movement which resulted in the escape of the fugitives, is responsible. On such an occasion, liability is not incurred where no other solicitude is shown by words or actions, than to obtain an impartial trial for the fugitives." (Ibid. p. 102.)

"In these matters, *the law, and not conscience*, constitutes the rule of action. You are sworn to decide this case according to the law and testimony. And you become unfaithful to the solemn injunctions you have taken upon yourselves, when you yield to an influence which you call conscience, that places you above the law and the testimony. Such a rule can apply only to individuals; and, when assumed as a basis of action on the rights of others, it is utterly destructive of all law. What may be deemed a conscientious act by one individual, may be held criminal by another. In the view of one, the act is meritorious; in the view of the other, it should be punished as a crime. And each has the same right, acting under the dictates of his conscience, to carry out his own view. This would overturn the basis of society." (Ib. pp. 104-5.)

"It is expected that the citizens of the free States should be opposed to slavery. But with the abstract principles of slavery we have nothing to do. As a political question there could be no difference of opinion among us on the subject. But our duty is found in the Constitution of the Union, as construed by the Supreme Court. The fugitives from labor we are bound, by the highest obligations, to deliver up on claim of the master being made; and there is no state power which can release the slave from the legal custody of his master." (Ibid. p. 105.)

"If the law be unwise or impolitic, let it be changed in the mode prescribed; but, so long as it remains the law, every good citizen will conform to it. And every one who arrays himself against it, and endeavors by open or secret means to bring it into contempt, so that it may be violated with impunity, is an enemy to the interests of his country.

"The jury returned a verdict for the plaintiff, for \$2,850 in damages." (Ibid. p. 106.)



## OHIO FROM 1802 to 1851.

## THE BLACK LAWS—THE THREE-FIFTHS RULE—FUGITIVE SLAVE, AND ANTI-KIDNAPPING LAWS.

During the first half of the nineteenth century, Ohio may well have been termed the "melting pot of the colonies." In no other State of the Union was the immigration from the original thirteen States so evenly distributed. To the Connecticut Western Reserve came settlers from all New England, New York, and northern Pennsylvania. To the east-central portion, comprising the counties of Columbiana, Stark, Wayne, Jefferson, Belmont, Carroll, and Tuscarawas, came settlers from middle and western Pennsylvania, including Moravians and "Pennsylvania Dutch." To Marietta and the Muskingum Valley came settlers from Massachusetts. All the rest of Southern Ohio was dominated by settlers from States in which slavery still existed when Ohio became a State—New Jersey, Delaware, Maryland, Virginia, North Carolina, Kentucky and Tennessee. \*\*

For a quarter of a century, the only political party in Ohio which had a State organization and any considerable following was the Democratic party, and its policy was shaped by men from these slave States. They showed no disposition, at any time, to ignore, or evade, the anti-slavery clauses of the Ordinance for the Northwestern Territory and the Constitution of Ohio. Indeed, the motive which actuated many of them in coming to Ohio, was the prospect of escaping from the evils of slavery and the degrading influences of a servile community.

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\*\* In taking the census of 1850, the first attempt was made to ascertain the nativity of the citizens of the respective States. This showed that 529,208 whites and 12,662 blacks, then residing in Ohio, were born in other states. New England contributed 66,032; New York, 83,979; New Jersey, 23,532; Pennsylvania, 200,634; Virginia, 85,762; Maryland, 36,698; Kentucky, 13,829; and all other States, 31,404. As many of the early settlers had died and many had passed on to other States in the West or Southwest, this is but an imperfect showing of the comingling of the people in the first State of the Central West.

They brought with them, however, their natural antipathy to the black race; their inability to recognize as man any person covered with a colored skin; their consequent unwillingness to grant him the rights of citizenship; and their settled conviction that, with few exceptions, negroes were only fit for slaves, and should be used as such wherever their labor was profitable and masters could be found willing to take the trouble of supporting them and forcing them to work. They soon made it apparent that negroes, bond or free, were not wanted in Ohio.

January 5, 1804, the Legislature passed "AN ACT TO REGULATE BLACK AND MULATTO PERSONS." \* \* by the terms of which, no such person was permitted to settle, or reside in the State, unless he should first produce a certificate from some Court within the United States of his actual freedom, and residents were prohibited from employing any black or mulatto person unless he had such certificate "under pain of forfeiting and paying any sum not less than ten nor more than fifty dollars \* \* \* for every such offence, one half thereof for the use of the informer." Any person harbouring or secreting any black or mulatto person, the property of any person whatever, or in any wise hindering or obstructing the owner in retaking his black or mulatto servant or servants was liable to the same penalty. Any person claiming that any black or mulatto person was his property, on making satisfactory proof of ownership, before any associate justice, or justice of the peace within the State, was entitled to a warrant directing the sheriff or constable to arrest such black or mulatto person and deliver him to the claimant. To prevent kidnapping, any person who should attempt to remove any black or mulatto person from this State without proving property was liable, on conviction, to forfeit and pay \$1,000, one half to

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\* \* Ohio Laws, II, 63 to 66 incl.; reprinted in O. L., VIII, 489 to 492 incl.

the use of the informer and the other half to the use of the State and moreover should be liable to the action of the party injured.

This act was followed by another, January 25, 1807<sup>100</sup> reenacted and reprinted in 1811, and again in 1816, 1824 and 1831, making the additional requirement that no negro or mulatto should be permitted to emigrate into and settle within this State unless he should

"within twenty days thereafter enter into bond with two or more sureties, in the penal sum of \$500 \* \* \* conditioned for the good behavior of such negro or mulatto, and moreover to pay for the support of such person in case he, she, or they should thereafter be found within any township in this State, unable to support themselves."

Any person employing, harboring, or concealing any such negro contrary to the provisions of this act shall forfeit and pay not exceeding \$100—one half to the informer and the other half for the use of the poor of the township in which such person may reside. This act further provided:—

"Sec. 4. \* \* \* That no black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this State, in any cause depending, or matter of controversy, where either party to the same is a white person, or in any prosecution which shall be instituted in behalf of this State against any white person."

These laws were not repealed until February 10, 1849<sup>101</sup> when Townshend, of Lorain, and Morse, of Painesville, at the head of thirteen Free Soilers from the Western Reserve, held the balance of power in the House of Representatives. The Democrats and Whigs, elected to this General Assembly, were so nearly equal in numbers that neither could command a quorum without the Free Soilers. The latter, con-

<sup>100</sup> O. L. V., 53-4; O. L., IX, 109-111 incl.; O. L., XXII, 334-5; O. L., XXIX, 440-1.

<sup>101</sup> O. L., XLVII, 17-18.

scious of their power and determined to use it to advance the cause they had at heart, refused to join with either until certain demands were complied with. Townshend dickered with the Democrats, and Morse, with the Whigs. Both demanded the repeal of the "Black Laws," and some suitable provision for the education of the colored children. Townshend demanded of the Democrats the election of Salmon P. Chase as United States Senator, and Morse demanded the election of Joshua R. Giddings. The first party to yield to these demands would receive the support of the Free Soilers. Amid storms of obloquy and the passionate outcries of their fellow members and the Press throughout the State, they held to their purpose for weeks. It was, perhaps, the most exciting session the Ohio Legislature ever held. At last the Democrats, many of whom were so-called Free Democrats, opposed to the further extension of slavery, came to terms, and the House was organized by the election of a Democratic Speaker and other officers. Salmon P. Chase was sent to the United States Senate and the Black Laws were repealed.<sup>102</sup> It is a commentary on the courage of the Democratic politicians that this repeal is hidden away in the 6th section of an Act "To authorize the establishment of separate schools for the education of colored children," and nothing in the table of acts passed, or the "Index" to the volume of statutes would give one an inkling that such a repeal had been effected.

This same section reveals the existence of another Black Law, passed February 9, 1831,<sup>103</sup> which was not repealed. It appears as a "joker" in Section 2 of "AN ACT relating to Juries." By this section, clerks of the courts of common pleas in their respective counties are required "on the first Monday of September next, and on the first Monday of Septem-

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<sup>102</sup> Warden, *Life of Salmon P. Chase*, pp. 320, 321, 322.

<sup>103</sup> O. L., XXIX, 94.

ber annually thereafter [to] cause the proportion of jurors to be ascertained from *the number of white male inhabitants* of the age of twenty-one," etc. The further duties of the clerks are prescribed in minute detail. Black and mulatto persons are nowhere mentioned in the act; but the act is so drawn that none but *white* persons could be placed in the jury box.

But the blacks were handicapped in many other ways. While their property was liable to taxation for all public purposes they had no voice in determining how public funds should be expended. The Constitution and laws limited the franchise to "white male inhabitants above twenty-one years of age."<sup>104</sup> They were not allowed to gain a "legal settlement" in any townships of the State so as to receive any benefit from the poor laws.<sup>105</sup> No relaxation of this rule was permitted until March 14, 1853,<sup>106</sup> when Sec. 2 of "AN ACT For the relief of the poor," declared—

"That nothing in this act shall be so construed as to enable any black or mulatto person to gain a legal settlement in this State. Provided that nothing in this section shall be so construed as to prevent the directors of any county or city infirmary in their discretion from admitting any black or mulatto person into said infirmary."

The Legislature passed many laws for the organization and maintenance of common schools, but the benefits of such schools were expressly limited to *white* unmarried persons between the ages of five and twenty-one.<sup>107</sup> The children of black and mulatto persons would seem to be excluded by necessary inference from attending public schools; but, that there might be no room for doubt or evasion, the

<sup>104</sup> *Charters & Constitutions*, II, 1455; Ohio Laws, I, 72; V, 55; XXV, 16; XXIX, 428; XXX, 5; XXXIII, 356; XLII, 3; XLIX, 109.

<sup>105</sup> O. L., V, 53; IX, 109; XXVII, 54; XXIX, 320.

<sup>106</sup> O. L., LI, 469.

<sup>107</sup> O. L., XXIII, ; XXVII, 33, 35; Ibid., 72; XXIX, 414; XXXII, 25; XXXIV, 19, 31; XXXVI, 21.

Legislature in an act passed in February, 1829,<sup>108</sup> "for the support and better regulation of Common Schoools" used this language:—

"*Provided*; That nothing in this act contained shall be so construed as to *permit* black or mulatto persons to attend the schools hereby established," etc.

A show of fairness was made in these acts by provisions excepting the property of black or mulatto persons from taxation for school purposes, and appropriating taxes assessed on their property for the education of black or mulatto persons, but it was a hollow mockery. All other children could gain an education at public expense, no matter how indigent their parents might be. Colored children could gain no education unless their parents, who had almost no opportunity to engage in lucrative pursuits, should establish and maintain private schools, at their own expense. The blacks and mulattoes did not demand separate schools, or special instruction for their children; and the segregation of black and white children was not made in their interest. Their children could have been taught in any school and by any teacher competent to teach white children, without any additional expense to the public. If the segregation was demanded by the whites and was, as claimed, in the interest of the general public, it would seem to be only fair that the general public should bear the expense.

The unfairness of saddling the cost of instruction in separate schools upon the blacks was made still more apparent by the passage of various laws providing for the teaching of German, at the request of German parents, in common, or separate, schools established and maintained at public expense, and by teachers who must have qualifications other than those required for teaching in English schools.

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<sup>108</sup> O. L., XXVII, 72.

The act of March 7, 1838 (O. L., XXXVI, 21 to 37, incl.) provided:—

"SEC. 9. \* \* \* That nothing in this act shall be so construed as to prevent any other language in addition to the English from being taught in the common schools, at the discretion of the directors."

The act of March 16, 1839, (O. L. XXXVII, 61 to 67, incl.) limited the privileges of common schools to white children but provided:—

"SEC. 6. That the directors shall have power to determine what branches and language, or languages, shall be taught in their several districts: Provided, That branches taught shall be such as are generally taught in common schools.

\* \* \* \*

SEC. 18. That in any district where the directors keep an English school, and do not have branches taught in German it shall be lawful for youths in such districts who desire to learn in the German language, to attend at a district German school \* \* \* and the same rule shall be adopted and privileges allowed in favor of those wishing to learn the English who reside in districts where the German language is taught, and so of any other language.

\* \* \* \*

SEC. 20. That it shall be the duty of the county assessors when taking a list of taxable property of the county, when he takes in the property of a black or mulatto person, to note the fact opposite to his or her name in the abstracts he makes out for the county auditor."<sup>108</sup>

But what was to be done about such "tainted property" was not made clear in the act; although the Act of March 7, 1838, (O. L., XXXVI, 21), provided that;

"If any tax for school purposes shall be levied on the property of any black or mulatto person it shall be the duty of the county treasurer or other person charged with the collection of the same to *abate* said tax."

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<sup>108</sup> \* The extent to which German schools and the study of German in English common schools was fostered by the Ohio legislature—all at public expense—may be appreciated by a study of the following acts:—Ohio Laws, XL, 52; XLV, 26-7; XLVII, 22-26; LI, 506; and LVIII, 90-1.

Common school education seems to have been a fascinating subject for Ohio legislators, for acts were passed nearly every year for revising, amending, or repealing former acts regulating the schools, or making entirely new provisions. Sometimes the acts authorizing levies of taxes for school purposes, excepted property owned by blacks and mulattoes, and sometimes they did not. It was too much trouble for the average county official to ascertain just what real estate and other property belonged to blacks and what did not, and just what law applied. It was inconvenient to use two different rates in figuring out the taxes which the respective classes—black and white—should pay; and so, in practice, the blacks generally paid their full proportion of the school taxes and derived no benefit whatever from the schools. This abuse of the color line became so notorious that the Whig legislature of 1838 adopted a “RESOLUTION, Relating to School Taxes, improperly paid by black and mulatto persons”<sup>100</sup> as follows:—

“Whereas, by an act of the General Assembly of the State of Ohio, passed March 10th, 1831, entitled ‘An act to provide for the support and better regulation of Common Schools,’ the property of black and mulatto persons was exempted from taxation for school purposes, and by the same act, the children of such persons were prohibited from a participation in the school fund raised under the provisions of this act, and consequently denied the privileges and benefits arising from our common school system: And, whereas, it is represented to this General Assembly, that, in many of the counties in this State, taxes have been collected for school purposes, of such black and mulatto persons, since the passage of the above mentioned act, contrary to its true meaning and intent, as well as justice and equity: Therefore, *Resolved* \* \* \*, That the auditors of the several counties in this State, be required to examine the tax duplicates of their respective counties, each year since the passage of the above mentioned act, and ascertain the amount of tax thus collected from black and mulatto persons each year, for school purposes, and cast the interest on the same annually, and

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<sup>100</sup> O. L., XXXVI, 412-13.



report the amount of such tax and interest, thus collected of such persons, and report the same to the Auditor of State on or before the first day of December next.

*"And be it further resolved, That the Auditor of State be required to report the same to the next General Assembly, within thirty days from the commencement of its session, to the end that the Legislature may have such action thereon as to it may appear just and right.*

*March 13, 1838."*

There was a see-saw in politics about this time, and the legislative power passed from the Democratic to the Whig party, and vice versa, with almost every election. The legislature of 1839 was Democratic and nothing came of this feeble attempt to do justice.

While there might be some show of reason in the law limiting the privileges of the common schools to the children of those who paid the taxes, if the rule was consistently applied and all those whose parents did not pay taxes were excluded, there was no basis, except racial prejudice, for distributing annually some two hundred thousand dollars arising from the proceeds of sales of "swamp lands" granted to the State, by Act of Congress, for purposes of education, among the several counties according to the number of *white* youth resident in each county, as provided by Section 3, of the act of March 7, 1838<sup>110</sup> and for making the schools supported by such public moneys free only to white children, as provided by Section 9, of the same act.<sup>111</sup> Such funds were not raised, and such support to the schools was not provided by white tax payers, and the rule for limiting benefits received to those who contributed to the fund could not apply.

A small band of so-called "theorists," mostly from the Western Reserve in several successive Legislatures, pressed home upon the minds and consciences of their fellow members the want of logic, of justice, of humanity, and of intelligent regard for the interest

<sup>110</sup> O. L., XXXVI, 21; XLIX, 40.

<sup>111</sup> Ibid., 25.

of the general public, involved in the exclusion of colored children from the common schools and the absence of any provision for educating such children. At last the Legislature of 1848 was moved to pass "AN ACT for the establishment of Common Schools for the children of black and mulatto persons,"<sup>112</sup> etc. This provided:—

SEC. 1. \* \* \* That all such property belonging to black or colored persons, as is liable to taxation when owned by white persons, and the taxes thereon assessed be collected in the same manner as similar taxes are by the acts to which this is an amendment, a separate account of which shall be kept by the several county officials, and shall be paid out for the support of schools for black or colored persons in any district in which such schools may be organized; but in any such district in which the children of black or colored persons are permitted to attend the common schools with the children of white persons, then such fund shall be added to the common school fund of the district from which it is collected, and paid over to the treasurer of said district on the order of the directors of said district.

SEC. 2. That every city, incorporated town, or village, seat of justice or organized township in this State, containing twenty or more black or colored children, of any age, and desirous of attending school, shall constitute a school district for such children; and it shall be lawful for colored persons residing in such school district as aforesaid, to assemble and organize said district, appoint school directors of their own number, to erect and repair a suitable school house of their own, to procure suitable teachers, and in all respects for such purposes only, to possess the same powers, and enjoy the same benefits that are possessed and enjoyed by white persons, by virtue of the acts to which this is an amendment.

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SEC. 5. That in every city" [etc.] "containing a less number than twenty black or colored children, desirous of attending school it shall be the duty of the school directors of any school district organized for the education of white children, to admit said black or colored children upon the same terms, and they shall be entitled to the same benefits as they would be if they were white \* \* \* *Provided no written objection be filed with the directors signed by any person*

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<sup>112</sup> Ibid. XLVI, 81 to 83 incl.

*having a child in such school, or by any legal voter of such district.*<sup>113</sup>

SEC. 6. \* \* \* [Where] "the white inhabitants will not permit them to attend said schools, and in all other respects be entitled to the same privileges, and governed in the same manner as they would be if they were white, under the acts to which this is an amendment, in all such districts, no black or colored person's property shall be taxed for school purposes.

\* \* \* \*

SEC. 9. That nothing in this act shall be so construed as to tax the property of white persons for the purpose of building school houses for black or colored children, or purchasing sites for such houses, or for tuition purposes contrary to the wishes of such tax-payers.

SEC. 10. \* \* \* in no case shall the property of black or colored persons be taxed for the support of schools organized to educate white youth, except as herein provided."

A curious specimen of local option law, which put it in the power of *one person* in each school district, whether he had children of his own or not, to prohibit the education of colored children in that district, though all other persons in such district should agree that they ought to have it!

The next Legislature—the one that repealed the "Black Laws" and sent Salmon P. Chase to the United States Senate—embodied such repeal in a new "Act, To authorize the establishment of separate schools for the education of colored children and for other purposes."<sup>114</sup>

By the terms of this act the school authorities of each incorporated township, city, etc., were:—

"authorized and required respectively, in case they shall not deem it expedient to admit the colored children resident in any such township, city, town or village, into the regular common schools therein established, to create one or more school districts, for colored persons in every such township, city, town or village"—

and to call a meeting of the colored tax payers of said district for the purpose of electing school directors

<sup>113</sup> Not italicized in the original.

<sup>114</sup> O. L., XLVII, 17-18.

for such district who should exercise the same powers in such district as were exercised by white directors in other school districts. Such districts were—

“held to include for school purposes only the colored persons resident within its territorial limits and from and after the establishment of the same, the colored youth resident therein shall attend the schools organized under the directors of such district.”

The option of admitting colored children to the common schools, or excluding them, was, by this act, transferred from the solitary and possibly childless voter of a district, to the school authorities, who may be fairly presumed to represent the majority of the voters in such district; but in other respects it was hardly an improvement on the colored school law of 1848. Section 3, of the Act provided:—

“no property of any colored tax payers within said districts shall be charged with any special tax for district purposes, for the benefit of the schools in any regular district, composed wholly or in part of the same territory; and no property of any white person in any regular district shall be charged any such tax for the benefit of the schools in any separate district composed wholly, or in part, of the same territory.”

In other words, the colored children could still enjoy only such schools as could be erected and maintained by levy of a school tax on the property of black and mulatto residents of the district in which they lived. Under this act, however, the colored children were generally permitted to attend the common schools on the Western Reserve and in many other portions of the State.

Racial antipathy to the blacks was shown in many other public acts and resolutions. For instance, on January 29, 1818, the Legislature adopted a resolution (O. L. XVI, 198-9), reciting that,—

“WHEREAS a number of the good people of this State have by memorial expressed their most ardent wishes for the emancipation and colonization of the people of colour of the United States: Therefore

*Resolved* \* \* \* That our Senators in Congress be instructed, and our representatives be requested, to use their best endeavors to procure the passage of a law which will effect the purpose aforesaid."

On January 24, 1828, the Legislature (O. L., XXVI, 177),—

*"Resolved* \* \* \* That our Senators in Congress be instructed, and our representatives be requested, to use their efforts to induce the government of the United States to aid the 'American Colonization Society' in effecting the object of their institution which is so eminently calculated to advance the honor and interest of our common country."

On March 23, 1849, the Legislature adopted the following "JOINT RESOLUTION, relative to the oppressed people of color in the United States (O. L. XLVII, 395-6),—

"WHEREAS, the people of color of the United States have been oppressed and enslaved, by the several States, and thereby degraded, and believing it to be the duty of the general government to do something for their elevation to that position nature's God designed for all men, therefore,

*Be it resolved* \* \* \* That our Senators be instructed, and our Representatives in Congress be requested to inquire into the expediency of procuring the passage of a law, authorizing the survey and appropriation of a portion of the territory acquired from Mexico, for the benefit of all free persons of color who may become actual settlers of the same, and a title of eighty acres of land delivered to each of said persons, free of charge, and also to establish schools, and provide for them a government for protection."

On February 5, 1850, the Legislature passed a "RESOLUTION, Instructing our Senators and Representatives in Congress in relation to the independence of Liberia, and for other purposes." (O. L., XLVIII, 714),—

\* \* \* to use their best influence to induce the general government to acknowledge the independence of the republic of Liberia; that they also be requested *to use all honorable means to induce the free blacks of the United States to emigrate to that country.*"<sup>115</sup>

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<sup>115</sup> The italics are mine.

On March 23, 1850, the Legislature adopted the following JOINT RESOLUTION Relative to Colonization." (O. L. XLVIII, 713),—

"WHEREAS, the settlement of the African coast with colonies of civilized colored men, is the cheapest and best plan of suppressing the African slave trade, being likewise calculated to further the work of colonizing our people of color, as well as civilizing and christianizing the African race, which plan of suppressing the slave trade is true American policy: Therefore,

*Be it resolved*, That our Senators and Representatives in Congress be, and they are hereby requested, in the name of the State of Ohio, to call for a change of National Policy on the subject of the 'African Slave Trade,' and that they require a settlement of the coast of Africa, with colored men from the United States and procure such changes in our treaty relations with other nations as will enable us to transport colored men from this country to Africa with whom to effect such a settlement."

Such resolutions cannot be attributed to personal hostility to the blacks or a desire to do them harm. They were entirely consistent with a determination to suppress the slave trade, and strong opposition to the extension of slavery, and a disposition to secure its abolition whenever that could be effected by moral suasion, or constitutional laws; but they indicated clearly that the majority of the people of Ohio hoped and desired that the blacks should not continue to dwell among them.

When North Carolina first proposed an amendment to the Constitution of the United States empowering Congress to pass a law to prevent further importation of slaves or people of colour into the United States,<sup>116</sup> the Ohio Legislature resolved, February 22, 1805, (O. L. III., 471-2) that,—

"as that period will shortly arrive, when Congress will possess the power to act as they may think proper on this subject; and notwithstanding that this inhuman practice is impolitic in the extreme, and altogether repugnant to the principles

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<sup>116</sup> North Carolina Laws.

on which our government is founded, yet, as it was a mutual agreement between the states forming the federal compact, that Congress should not possess the power of preventing any of the states, then existing, from carrying on a traffic of this kind for a given period.”—

such proposed amendment was inexpedient at that time; but also resolved that the senators and representatives from Ohio be requested to use their best endeavors to have a law passed laying a tax of ten dollars on every slave imported into the United States, and also to prohibit their importation into any of the territories thereof. On December 25, 1806, however, the Legislature adopted a “Resolution requesting our senators and representatives in Congress to use their exertions to procure the passage of a law, prohibiting the importation of slaves into the United States or the territories thereof \* \* \* so soon as the constitution will admit of the same.”<sup>117</sup>

In 1804, the Massachusetts Legislature passed a resolution instructing their Senators in Congress to take all proper measures to obtain an amendment \* \* \* so that representatives may be apportioned among the several States according to the number of their free inhabitants respectively, and requested the legislatures of other States—Ohio included—to take similar action.

On December 26, 1804, the Ohio Legislature adopted a resolution (O. L., III, 466-7), reciting, among other things:—

“that the constitution of the United States, in some of its leading features, is the result of compromise and mutual balancing of interests between the several States, particularly that clause which admits a partial representation of slaves; that the inequality of representation complained of \* \* \* does not exist at present; and that to interfere, at this time, with that part of the constitution which may be viewed as securing privileges to particular States, would tend to excite State jealousies, destroy that confidence and good under-

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<sup>117</sup> O. L., V. 142

standing which now prevails, and endanger the union of the States, Therefore,

*Resolved*, That the said amendment to the Constitution of the United States, is inexpedient, and does not meet the approbation of this legislature."

In 1815, Massachusetts and Connecticut proposed seven amendments to the constitution of the United States and among them:—

1st. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers of *free* persons, including those bound to service for a term of years, and excluding Indians, not taxed, and all other persons."

On January 17, 1916, the Ohio Legislature—

*"Resolved, unananimously, \* \* \** That it is inconsistent with good policy to adopt the said amendments, and that this general assembly do not concur therein."<sup>118</sup>

By such resolutions of State legislatures and the *obiter dicta* of judges, in cases which had nothing to do with the apportionment of taxes or representation among the several States, the "three-fifths rule" came to be invested with a peculiar sanctity which protected it from amendment, although there is not a word in the Constitution itself which exempts it from the liability to amendment which attaches, with two exceptions, to every other provision. Article V, of the Constitution, which authorizes amendments and prescribes the steps necessary to be taken to validate them, contains this proviso:—

"Provided that no Amendment which may be made prior to the year one thousand and eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the First Article; and that no State without its Consent shall be deprived of its equal Suffrage in the Senate."<sup>119</sup>

On the familiar principle, *expressio unius, exclusio alterius*, any amendment to the first clause of

<sup>118</sup> O. L., XIV., 460-1.

<sup>119</sup> *Charters & Constitutions*, I., 19.



the ninth section of the first article could be made at any time after January 1, 1908. The wording of the entire article shows that the Convention knew how to make any provision immune against amendment, either temporarily, or for all time. The fact that no such provision was made with regard to the three-fifths rule demonstrates that the ability to amend that rule was just as much a part of the compromise as the rule itself.

The same may be said of the Article in the United States Constitution providing for the reclamation of fugitives from labor. The Ordinance for the Government of the Northwestern Territory, enacted more than two months prior to the signing of the Constitution by the delegates from the several States, recited that certain Articles should "be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable unless by common consent."<sup>120</sup>

Article VI provided:—

"That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the persons claiming his or her labor as aforesaid."<sup>121</sup>

It was contended by persons, who wished to introduce slaves into the Indiana Territory after Ohio had become a State of the Union, that this Ordinance, being merely a Congressional enactment, could be altered, amended or repealed by any subsequent Congress, and therefore that the recital that it should "forever remain unalterable unless by common consent" was a *brutum fulmen*. In December, 1805, a petition was presented to Congress praying for a suspension of the first part of Article VI, "There shall be neither slavery nor involuntary servitude in the said territory" etc., and on February 14, 1806,

<sup>120</sup> *Charters & Constitutions*, I., 431.

<sup>121</sup> *Ibid.*, 432.

the committee of the House of Representatives to whom the petition was referred, reported in favor of granting it. No action having been taken by that Congress, William Henry Harrison, Governor of the Territory, transmitted certain resolutions which he said had been *unanimously adopted* by the Territorial Council and House of Representatives, in favor of suspending the obnoxious anti-slavery clause. This communication was laid before the House of Representatives by the Speaker, January 20, 1807. A committee of the House, to whom they were referred, again reported favorably and the House passed a bill suspending the prohibition of slavery, but it failed in the Senate. It seemed that no one in the Northwestern Territory, or in Congress, regarded Article VI as "forever unalterable;" and, if the first clause could be suspended, or set aside, by a mere Act of Congress and the consent of the Territorial Legislature, the *proviso* relating to the reclamation of fugitives from labor could also be suspended or set aside. Anti-slavery men in Ohio could well afford to accept the reasoning and conclusions of the pro-slavery men, but for one stubborn fact. The Constitution of the United States had been adopted after the Ordinance of 1787, and had become the supreme law of the land. This Constitution contained a provision for the reclamation of fugitives from labor; it did not contain a prohibition of slavery within the bounds of the Northwestern Territory, or any of the States organized therein.

The Constitution of Ohio, adopted November 29, 1802, provided:—

#### "ARTICLE VII

"SEC. 5. \* \* \* But no alteration of this constitution shall take place, so as to introduce slavery or involuntary servitude into this State."<sup>122</sup>

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<sup>122</sup> Ohio Laws, I. Appendix, p. 16.

## "ARTICLE VII.

"SEC. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes." etc.<sup>122</sup>

The act of Congress, known as the Fugitive Slave Law, passed February 12, 1793, was accepted as a part of the law of the land and reprinted in at least five volumes of Ohio Laws between 1804 and 1831, as before stated.<sup>124</sup> The so-called "Black Laws" of Ohio were intended to conform to it, so far as they relate to the reclamation of run-away slaves. There seems to have been little difficulty at first in the enforcement of either; perhaps, because there was little occasion for such enforcement until the increase in the value of slaves and the steady demand for them "down the river." This condition of things resulted in more escapes from Kentucky into Ohio, more energetic pursuit, more attempts, by force or fraud, to carry off free negroes, and more collisions between slave catchers and white sympathizers with the persecuted blacks, whether fugitives or freemen.

Kentucky, probably, lost more slaves by flight than any other State in the Union, because of its extensive northern frontier.

In 1817, the Legislature of Kentucky adopted resolutions complaining of the States north of the Ohio river for not passing and enforcing laws for the more effectual reclamation of "fugitives from labor." To a letter of the Kentucky Executive transmitting a copy of these resolutions to be laid before the Legislature of Ohio, Governor Thomas Worthington replied, October 23, 1817:—

"I can assure you, Sir, that so far as I am informed there is neither a defect in the laws nor want of energy on the part of those who execute them. That a universal prejudice against the principles of slavery does exist and is cherished, is to be expected, and that a desire as universal to get rid of

<sup>122</sup> Ibid., p. 22.

<sup>124</sup> *Supra*, p. 46.

every species of negro population exists, is, in my opinion, as certain. The fugitive act is fully executed. You know, Sir, that the writ of *habeas corpus* cannot be denied, and that it too often happens that the proofs of the right of property are defective. Under such circumstances the judge must act according to the facts."<sup>125</sup>

On the other hand, Ohio had complaints to make of the operations of slave-catchers in her borders, and, on January 25, 1819, the General Assembly passed "AN ACT to punish Kidnapping"<sup>126</sup> directed at the lawless operations of these gentry. The preamble refers to the Fugitive Slave Act of 1793, and proceeds:—

"Whereas, It has been represented to this general assembly, that upon pretence of seizing fugitives from service, under the provisions of the before recited act, unprincipled persons have kidnapped free persons of colour within this State, and sell them into slavery; and whereas it is necessary and proper to put a stop to this nefarious and inhuman practice: Therefore,

SEC. 1. Be it enacted \* \* \*, That if any person, or persons, under any pretence whatsoever, shall by violence, fraud or deception, seize upon any free black or mulatto person, within this state, and keep or detain such free black or mulatto person in any kind of restraint or confinement, with intent to transport such free black or mulatto person out of this State, contrary to law, or shall in any manner attempt to carry out of the state any black or mulatto person, without having first taken such black or mulatto person before some judge of the circuit or district court, or justice of the peace, in the county wherein such black or mulatto person was taken, agreeable to the provisions of the above recited act of congress, and then prove his right to such black or mulatto person, every such person so offending, shall be deemed guilty of a high misdemeanor; and on conviction thereof before any court having competent authority to try the same, shall be confined in the penitentiary of this state at hard labour, for any space of time not less than one nor more than ten years, at the discretion of the court."

<sup>125</sup> Mss. quoted in William Henry Smith, *Political History of Slavery*, I., 21.

<sup>126</sup> Ohio Laws, XVII., 56 to 58 incl.

This act was reenacted and reprinted in 1824<sup>127</sup> and 1831.<sup>128</sup>

The more numerous, and the more valuable, the "fugitives" became, the more profitable the chase, and slave catchers became more and more reckless as to whom they seized and how they carried them off. They naturally preferred to avoid the delay and expense of appearing before Judges and justices with their prey and proving ownership in themselves, or their employers. They were very willing to act on the principle, "When in doubt take the trick." If they could get out of the State with a colored man, it would be easy to find or improvise an owner for him, even if he had never seen his "property" before.

The extremes to which man stealers were willing to go in making gain out of the sale of human flesh is indicated in "AN ACT, To prevent the Forcible Abduction of the Citizens of Ohio," passed June 19th, 1835, which provided:—

"That any person or persons, who shall kidnap, or forcibly or fraudulently carry off, or decoy out of this State, any *white* person, or persons, with an intention of having such person or persons carried out of the State, unless it be in pursuance of the laws thereof; and shall be thereof duly convicted \* \* \* shall be deemed guilty of a misdemeanor, and shall be confined in the Penitentiary at hard labor, for any space of time not less than three nor more than seven years, at the discretion of the Court; and shall, moreover, be liable for the costs of prosecution."

On March 9, 1838, the Legislature passed the following "PREAMBLE AND RESOLUTION:—"<sup>129</sup>

"Whereas, It is represented to this General Assembly that Eliza Jane Johnson, a free woman of color, was lately carried by force, and without legal authority, from her home in Brown county, Ohio, into Mason county, Kentucky, on the pretence of being a slave of Arthur Fox, of said county of Mason, and though the said Arthur Fox disclaims any

<sup>127</sup> O. L., XXII., 338.

<sup>128</sup> O. L., XXXIII., 5.

<sup>129</sup> O. L., XXIX., 442.

<sup>130</sup> O. L., XXXVI., 410-11.

title to said Eliza, she is still detained in confinement in the jail of said county: Therefore,

*Resolved*, That his Excellency the Governor be, and he is hereby requested to open a correspondence with the Governor of Kentucky, in relation to the illegal seizure and forcible removal of said Eliza Jane Johnson, from Brown county, Ohio, to Mason county, Kentucky, where she is detained in prison, and that he respectfully insist on the restoration of said Eliza Jane Johnson to the enjoyment of freedom and friends."

The complaints of the Kentucky legislature derived some support from the fact, revealed by the United States Census Reports, that in 1810 there were but 1,899 blacks in Ohio; that in 1820 there were 4,723; in 1830, 9,568; in 1840, 17,342, and in 1850, 25,279. Of the latter more than half were born outside of the State. We must attribute much of the gain in the black population to immigration from slave States. Still, it would be far from just to say any large proportion of those who remained in the State were "fugitives from labor." Many, like the Langston brothers, were manumitted by their masters. Statistics are not available to show how many passed through the State on the "underground railroad," bound for Canada.

On February 26, 1839, the Legislature passed a very elaborate "ACT Relating to Fugitives from labor or service from other States."<sup>111</sup> The preamble recited among other things that:—

"the laws now in force within the State of Ohio are wholly inadequate to the protection pledged by this provision of the constitution to the southern States of this Union;"

As the Act of Congress of February 12, 1793, was a law in force, within the State and so recognized, the criticism extends to that also; but it was for Congress—not the Legislature of Ohio—to make good the deficiencies of that law.<sup>112</sup> The Ohio law prescribed the mode of procedure to be followed by

<sup>111</sup> O. L., XXXVII, 38 to 43 incl.

<sup>112</sup> *Prigg v. Pennsylvania*, 16 Pet. 539

the claimant of any alleged fugitive, and contained provisions tending to protect colored people from being spirited away by false claimants, without a hearing. For instance, the claimant was required to take the alleged fugitive "*before some judge of a court of record in this State residing in the county in which such arrest is made*" and "*no such arrest shall be made by any sheriff or constable of this State without the limits of his own proper county.*" No certificate of ownership "*shall be deemed a sufficient authority for the removal of such fugitive \* \* \* unless the official character of the officer giving the same be duly authenticated,*" by his hand and official seal. *If the person so arrested and brought before the judge should file an affidavit that he does not owe labor or service to the claimant and that he believes he will be able to produce evidence to that effect, the judge was to give him time, not exceeding sixty days, within which to produce such evidence* and meanwhile he would be committed to the county jail, there to be kept at the expense of the claimant, unless he could give bond in the sum of one thousand dollars with sufficient sureties, to be approved by the judge conditioned on his appearance at the time and place appointed for the trial and that he would abide by the decision of the judge who should try the case.

The following provisions are of interest:—

"SEC. 9. It shall be the duty of all officers proceeding under this act to recognize, without proof, the existence of slavery, or involuntary servitude in the several states of this Union in which the same may exist or be recognized by law."

"SEC. 11. If any person or persons shall in any manner attempt to carry out of this State, or knowingly be aiding in carrying out of this State, any person, without first obtaining sufficient legal authority for so doing, according to the laws of this State or of the United States, every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned in the penitentiary and kept at hard labor, not less than three nor more than seven years."

All of the provisions noted were reasonable and not in contravention of the rights of a real owner to reclaim a run-away slave really belonging to him; but, January 19, 1843, this last act was repealed and the second section of "AN ACT to prevent kidnapping," passed February 15, 1831, was revived.<sup>133</sup> This action was brought about by the decision of the United States Supreme Court in *Prigg v. Pennsylvania*, at the January term, 1842,<sup>134</sup> holding that—

"The clause relating to fugitive slaves is found in the national constitution, and not in that of any State. \* \* \* The natural, if not the necessary, conclusion is, that the national government in the absence of all positive provisions to the contrary, is bound, through its own proper departments, legislative, executive, or judiciary as the case may require, to carry into effect all the rights and duties imposed upon it by the Constitution.

\* \* \* \*

It would seem, upon just principles of construction, that the legislation of Congress, if constitutional, must supersede all State legislation upon the same subject; and by necessary implication prohibit it; \* \* \* it cannot be that the State legislatures have a right to interfere."<sup>135</sup>

This decision was hailed as a welcome relief, on the part of the Ohio Legislature, Courts and Executive, from all responsibility for the return of fugitive slaves and, thenceforth, no effort was put forth by either to assist claimants in recovering their alleged "property." What was done in that line, from 1843 to 1850, was done through United States courts and officials. The acts respecting kidnapping remained in force.

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<sup>133</sup> O. L., XLI, p. 13.

<sup>134</sup> 16 Peters, 529 to 674 incl.

<sup>135</sup> *Ibid.*, 541.



## THE WESTERN RESERVE AND THE FUGITIVE SLAVE LAW OF 1850.

In the Convention which framed the original Constitution of Ohio, two delegates were seated from Trumbull County, which was then co-extensive with the Western Reserve. This representation was based on an estimate that the population of the Reserve was about one eighteenth of the whole. From 1802 to 1850 the settlement of the Reserve proceeded more rapidly than that of most other portions of the State, and its representation in the State Legislature increased from one-eighteenth in 1802 to one-tenth in 1820, two-seventeenths in 1830, two-thirteenths in 1840, and about one-sixth in 1850. The settlers, up to this time, were almost wholly of New England stock, even when their last point of departure was in New York or Pennsylvania. It was an enterprising, virile, intelligent and homogeneous community of farmers with just enough millers, manufacturers, merchants and professional men to supply the local demand. The local laws of Ohio show the incorporation on the Reserve of schools, academies, institutes, colleges, libraries, literary societies, lyceums, etc., in proportion to population, far in excess of that shown by any other portion of the State. The colonists intended that their children should have the benefits of a liberal education. The parents themselves were generally readers of the county newspapers, and of weekly or semi-weekly papers<sup>186</sup> published in New York or Boston. The editors and professional men were readers of the *Federalist* and the *Madison Papers*. The Constitution was the subject of constant study and individual interpretation.

One or more weekly papers were published at

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<sup>186</sup> The Independent and the Semi-weekly Tribune (Commonly pronounced Try-bune) had a wide circulation; but the latter lost favor in 1858 to 1860 when it advocated support of Douglas by the Republican party.

every county seat. The editors were generally well educated and took an active part in local politics, serving on State and county executive committees, attending political conventions, and often being sent to represent their respective districts in the Legislature. The typography and general appearance of their weekly issues might successfully challenge comparison with any similar publications of the present day. The editorials were generally well thought out and well expressed, and the selection and arrangement of reading matter was calculated to interest and inform the readers about all political, religious and social topics of the day. It would be hard to find any superiors to the Western Reserve Chronicle, published at Warren; the Portage Democrat, published at Ravenna; the Mahoning Register, published at Canfield and Youngstown, the Ashtabula Sentinel, published at Jefferson, the Summit County Beacon, of Akron, and the Painesville Telegraph.

One peculiarity of the population of the Reserve down to 1850 was that it contained almost no persons of foreign birth, until the building of railroads and opening of mines brought in numbers of Irishmen and Welshmen. In 1850, Cleveland had only 17,034 inhabitants and nearly all were native born. Very few blacks were found on the Reserve prior to 1850. The following table shows the number of such people found in the respective counties at five successive censuses:—

<i>County</i>	<i>1820</i>	<i>1830</i>	<i>1840</i>	<i>1850</i>	<i>1860</i>
Ashtabula.....	4	11	17	43	25
Cuyahoga.....	54	21	121	359	894
Erie.....not organized			97	202	149
Geauga.....	6	21	3	7	7
Huron.....	7	7	106	39	79
Lake.....not organized			21	38	36
Lorain.....not organized		3	62	264	549
Mahoning.....not organized				90	61
Medina.....	14	12	13	35	38
Portage.....	32	66	39	58	76
Summit.....not organized			42	121	88
Trumbull.....	50	43	70	65	80
<b>Totals.....</b>	<b>167</b>	<b>184</b>	<b>591</b>	<b>1,321</b>	<b>2,082</b>

The rapid increase of the black population in Cuyahoga and Erie between 1840 and 1850 was due to the growth of the cities of Cleveland and Sandusky and the opportunities for employment about the docks, railroad terminals, hotels and barber shops. The increase in Lorain County was due chiefly to the opportunities for obtaining an education, which were given to the blacks on the same terms as to the whites, at Oberlin. The increase from 1850 to 1860 was mostly confined to Cuyahoga and Lorain counties, and, in five of the twelve counties, there was a decline in the negro population.

The interest of the politicians in such counties as Ashtabula, Geauga, Medina and Portage in all questions concerning the welfare of the black race seems to have been in inverse ratio to the numbers of such race found in their respective counties.

The blacks were not numerous enough in any Western Reserve community to excite racial hostility. Attempts to awaken fears that their sons or daughters might marry negroes—so potent elsewhere—only provoked laughter on the Reserve. Abstract theories of right and wrong were not distorted by self interest. To the student and philosopher this was an advantage; but to the politician, in search of a sure foundation on which to build, it was a disadvantage. Selfish interest exerts an influence over political and legislative action, far more persistent and powerful than any abstract idea. The success of slave owners in the South and of protectionists in the North, in controlling Congressional legislation and executive action for three quarters of a century, is a striking demonstration of this theorem. Down to 1826, people of the Western Reserve generally voted the Democratic State ticket, because there was no other. The Independent Democrat, of Elyria, the Portage Democrat, of Ravenna, the Jeffersonian Democrat, of Chardon, and many other "Weekly Democrats" were projected when almost all men

were content to be called Democrats; and the proprietors saw no reason for changing the names of the papers and losing their good-will, when they ceased to adhere to that party.

The people of the Western Reserve turned toward the Whig party, as they saw the Democratic party come more and more under the control of the slave power. They did not propose to interfere with slavery in any of the States where it was established, but they were opposed to its extension to any other States or Territories, and they intended to abolish it in the District of Columbia as soon as they had the power to do so. Their votes decided the State elections in favor of the Whigs in 1826, 1828, 1830 and 1836. In November, 1838, Henry Clay wrote:—

“In Ohio, the Abolitionists are alleged to have gone against us [the Whigs] almost to a man.” “The introduction of this new element of abolition into our elections cannot fail to excite with all reflecting men the deepest solicitude.”<sup>117</sup>

They helped elect Corwin, Whig candidate for Governor, and Harrison, Whig candidate for President, in 1840, but their apathy enabled the Democrats to win the State election in 1842. Ohio gave Clay, Whig candidate for President, a plurality of 5,940 in 1844; but 8,050 votes were cast for James G. Birney, the candidate of the Liberty party.

Our two party system has its advantages; but an element in both parties was becoming greatly dissatisfied with the dominating element. There were “Free Democrats” and “Independent Democrats” in the one, and “Progressive Whigs” and “Free Soilers” in the other—all opposed to the extension of slavery to new territory, to the annexation of the slave State Texas, to the war with Mexico, and to every effort of the slave owners to extend and nationalize their “peculiar institution.” There was little to be gained by changing from one party to another,

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<sup>117</sup> Schurz, *Henry Clay*, II., 163.

and effective protests against the aggressions of the slave power could only be registered by throwing away votes. Henry Clay, personally very popular with the masses, made the fatal mistake of trying to hold the pro-slavery Whigs of the South in line, by a series of so-called "Alabama Letters" in which he announced that he should not object to the annexation of Texas, *provided*, etc. It is not likely that he gained a single electoral vote in the South by his qualified acquiescence in annexation and it is certain that he alienated large numbers of the anti-slavery Whigs of the North who either did not vote at all, or voted for Birney.

One of the popular campaign songs, sung by the "Hutchinson Family," at many political meetings on the Reserve, had this refrain;

"Clear the track for Emancipation!  
Cars cannot run on a Clay Foundation."

The 65,608 votes cast for James G. Birney would, if cast for Henry Clay, have given him a popular majority of 27,433, and an electoral vote of 146 to 129. Birney received 15,812 votes in New York State, one-third of which, if cast for Clay, would have given him the 36 electoral votes of that State and made him President. <sup>118</sup>

Birney's vote was an evidence of sheer desperation on the part of anti-slavery men and a warning signal that should have been heeded by those who were running the Whig party.

The attitude of a majority of the people of Ohio, at this time, is shown by the election of Thomas Corwin, an eloquent and outspoken opponent of Texas Annexation and the Mexican War of Conquest, to the United States Senate, and by the "PREAMBLE AND RESOLUTION Relative to the annexation of Texas," adopted by the Legislature, January 17, 1845, in which the following language was used:—

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<sup>118</sup> McKee, *National Conventions & Platforms*, 56 and 57.

"We do solemnly and earnestly protest against any proceeding of the government of the United States or any branch or department thereof, having for its object the annexation of Texas to the United States. \* \* \* fourth, because it would involve us in the guilt, and subject our country to the reproach of cherishing, sustaining and perpetuating the evils of slavery—fifth, because an union between the United States and Texas, with the guaranty, or understanding, that the whole or any part of the territory of Texas shall be formed into a state or states where slavery shall be permitted to exist, and where slaves shall be counted in determining the relative weight of such states in the Federal Union, would still farther extend the undue advantage which the citizens of the slaveholding states have over those of the states in which slavery is not permitted."<sup>139</sup>

On February 8, 1847, the Legislature adopted Joint Resolutions demanding that Slavery be excluded from Oregon Territory and any other territory which may hereafter be annexed to the United States.<sup>140</sup>

On February 24, 1848, the Legislature adopted "RESOLUTIONS Relative to the acquisition and control of foreign territory by the United States," in which the following language was used:—

*"Resolved* \* \* \* That whatever difference of opinion may exist as to the power of Congress to prohibit the formation of slave States out of the territory belonging to the federal government, and entitled to admission to the Union, there cannot be any rational ground for such difference of opinion as to territory that may be hereafter obtained by conquest or by purchase" and—

*"Resolved*, That the present war with Mexico was neither sought nor advised by the State of Ohio. \* \* \* her citizens have been with the national flag, and have attested their devotion to it on many fields and through divers perils \* \* \* She hereby protests by every drop of blood that has been spilt by her citizens, by every flag that has been enrolled from her borders, by the spirit of her sisterhood with the American States, that any territory acquired either by purchase or by conquest, as the result of this war, shall be national territory; and the State of Ohio must be heard, and will have a share in determining the character of the institutions by which such territory shall be governed."<sup>141</sup>

<sup>139</sup> O. L., XLIII, 437.

<sup>140</sup> O. L., XLV, 214.

<sup>141</sup> O. L., XLVI, 300.

On February 22, 1848, a Whig legislature endorsed the course of Senator Thomas Corwin in opposing the Mexican War, and resolved, among other things:—

“That the State of Ohio repudiates, as a libel upon the constitution of the United States, the degrading and pernicious dogma, which asserts, that when the nation is once involved in a war with a foreign country, no matter by what means or for that ends, it is the prerogative of the president to determine the purpose for which it shall thenceforth be carried on, and the measure of its duration.

That congress does possess and may exercise the right to interfere with this kingly attribute, when asserted or claimed by the president; and that it can never be the duty of the representatives of the States and of the people tamely and submissively to bow to the dictates of executive will, and humbly to subserve its behests, by transcribing into the form of legal enactment the imperious requisitions of the President for supplies of money and of men.”<sup>142</sup>

On February 25, 1848, the Legislature adopted a “RESOLUTION Declaring that so much of the Ordinance of 1787 as relates to slavery, should be extended to the territory acquired from Mexico.”<sup>143</sup>

On March 24, 1849, the Legislature adopted a JOINT RESOLUTION Relative to Slavery and the Slave Trade in the District of Columbia, instructing “our Senators and Representatives in Congress \* \* \* to use all constitutional means for the abolition of slavery in the District of Columbia.”<sup>144</sup>

It was this Legislature which was forced, by a few Western Reserve men, to elect Salmon P. Chase as United States Senator by the Democratic party, although he was not the choice of that party and had really acted with the Liberty Party in 1843 and 1844.<sup>145</sup> The Western Reserve men were again potent in elect-

<sup>142</sup> O. L., XLVI., 299.    <sup>143</sup> Ibid., 314.    <sup>144</sup> O. L., XLVII, 396.

<sup>145</sup> At a memorial meeting held by the Cincinnati Bar, after the death of Chief Justice Chase, Judge H. C. Whitman said among other things: “Standing as Mr. Chase there did, as the representative of thirteen delegates of a small portion of the State, representing as he did neither the Democracy nor the Whigs, neither party liking him, if it had not been for his manly course from beginning to end \* \* \* he never would have been elected.” Warden, *Chase*, 324.

ing Benjamin F. Wade as United States Senator, in 1851, to succeed Thomas Corwin, who had not measured up to their expectations.

These extraordinary achievements of a resolute minority of Ohio voters presaged a disintegration of one or both of the old parties and the formation of a third party which should be stronger than either. The process, which might otherwise have proved gradual was hastened by the so-called "Compromise Measures" carried through Congress in 1850 by the combined action of Henry Clay and Daniel Webster, the two great leaders of the Whig party.

The Democratic party had succeeded in their program of annexing Texas; of wresting from Mexico an immense tract of land between the Nueces River and the Rio Grande, which the Texans claimed but had never organized or occupied; of defeating Mexico in the war which ensued; and of acquiring from Mexico, by forced treaty, additional territory out of which have since been formed the six great States of California, Nevada, Utah, Colorado, Arizona and New Mexico, and all of which had been free from slavery under the laws of Mexico.

The avowed purpose of the administration in prosecuting annexation and war on Mexico was to acquire additional territory to be carved into slave States and secure to the slave power full control of the United States Senate with at least an even chance of controlling the House of Representatives. Texas was to be carved into four States and the rest divided as circumstances might require.

This program was not at all to the liking of a majority of the Northern people, and every step was taken contrary to resolutions of protest in Northern State legislatures and in spite of the determined opposition of northern members of Congress—chiefly Whigs. The Whigs had elected General Zachary Taylor their candidate for President in 1848 by a plurality of 139,557 in the popular vote and a majority



of 36<sup>146</sup> electoral votes over Lewis Cass, the Democratic candidate. The Whigs adopted no national platform, relying on the popularity of their candidate and the unpopularity of the measures set forth in the Democratic platform. They succeeded this time, but it was their last victory in national politics. The American voter with firm convictions, does not long remain attached to a party which has no principles which it dares avow. The "Free Soil" party nominated Martin Van Buren on a platform boldly declaring:—"a common resolve to maintain the rights of free labor against the aggression of the slave power, and to secure free soil to a free people;" that the old parties had stifled the will of a great constituency and, "under the slave holding dictation," nominated "candidates neither of whom can be supported by the opponents of slavery extension without a sacrifice of consistency, duty and self-respect;" that "the entire history of that period," preceding and following the adoption of the Constitution, "clearly shows that it was the settled policy of the nation not to extend, nationalize, or encourage, but to limit, localize and discourage slavery; and to this policy, which should never have been departed from, the government ought to return;" "that in the judgment of this convention Congress has no more power to make a slave than to make a king; no more power to institute or establish slavery than to institute or establish a monarchy;" "that the true and, in the judgment of this convention, the only safe means of preventing the extension of slavery into territory now free is to prohibit its extension in all such territory by an act of Congress;" "that we accept the issue which the slave power has forced upon us; and to their demand for more slave States and more slave territory, our calm but final answer is; No more slave States and no more slave territory. Let the soil of our extensive

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<sup>146</sup> McKee, *National Conventions & Platforms*, 71, 72.

domain be kept free for the hardy pioneers of our own land and the oppressed and banished of other lands;" "that we inscribe on our banner, 'Free Soil, Free Speech, Free Labor, and Free Men,' and under it we will fight on, and fight forever, until a triumphant victory shall reward our exertions."<sup>147</sup>

On this platform Van Buren polled 291,263 votes—120,510 in New York State and 38,058 in Massachusetts, largely contributed by dissatisfied Democrats, and 35,354 in Ohio and 10,389 in Michigan, contributed almost wholly by dissatisfied Whigs.<sup>148</sup> The Democrats retained control of the Senate by a majority of 8 over all, and the House of Representatives by the narrow majority of 5.<sup>149</sup>

The growth of the dissenting element in both parties had its significance; but the whole scheme of the slave power was wrecked by the discovery of gold in California and the rush of men from the free States to that El Dorado. The greed for gold overwhelmed and defeated the greed for more slave territory. No statesman could claim credit for this extraordinary and unforeseen emigration of the free to the newly acquired Mexican territory. And, as events proved, no political combination could long postpone the inevitable consequences.

Congress had been unable to pass any law for the territorial government of the newly acquired territory, or, in the language of General Taylor, "to substitute law and order there for the bowie knife and revolvers," owing to the insistence of Northern men upon the "Wilmot Proviso," providing that in all such territory slavery should be forever pro-

<sup>147</sup> McKee, *National Conventions & Platforms*, 67, 68.

<sup>148</sup> Ibid., 71. Chase wrote in March, 1849, "In Massachusetts and in the northern counties of Ohio, the profound anti-slavery convictions of the people made it impossible for them to support national nominees without any declaration against the extension of slavery." Warden, 319.

<sup>149</sup> Ibid., 73.

hibited.<sup>150</sup> So, immediately after his inauguration as President, Taylor sent a confidential agent to California to act with the military governor in promoting the formation of a State government.<sup>151</sup> A constitutional convention was assembled at Monterey, by order of General Riley, September 1, 1849, and after deliberating about six weeks completed a constitution, which was submitted to the people and ratified November 13, 1849, by a vote of 12,061 for to 811 against. This constitution followed closely those of the eastern and central western States and provided among other things:—

“Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state.”<sup>152</sup>

The application for admission of the whole of California as a State in the Union, with such a constitution, was received by the pro-slavery men with consternation. The whole edifice built upon the annexation of Texas, the extension of its borders, the war with Mexico and the acquisition of more territory, for the purpose of extending slavery and securing the preponderance of the slave power in national affairs, was rudely shattered. The admission of the State, with its designated boundaries and free constitution, was violently opposed. All the supposed grievances of North and South were aired in the ensuing debate and nearly all the arguments of the pro-slavery men threatened, or predicted, a dissolution of the Union unless the Constitution was so modified as to give Southern men what were termed “equal rights” in the new State. By “equal rights” they meant the right of Southern slave holders

<sup>150</sup> A motion instructing the committee on Territories to bring in a bill for organizing California and New Mexico with the least possible delay and excluding slavery therefrom was made by Joseph M. Root, of Sandusky and carried by 108 to 80.

<sup>151</sup> *Messages of the Presidents*, Vol. V., 27, 41.

<sup>152</sup> *Charters & Constitutions*, I., 195, 196, 207.

to take their slaves there and establish and maintain slavery. There was more passion than logic in most of the arguments. It did not seem to occur to them that Southern men could go to, and reside in, such a State just as every other man did or could—without slaves.<sup>153</sup>

Calhoun's last speech was made during this debate. To meet the argument that California always had been free territory and that the clause in the State Constitution prohibiting slavery was adopted without dissent, he formulated the dogma that, the moment the treaty with Mexico was signed, the Constitution of the United States, *ipso facto*, imported slavery into the newly acquired territory, and to exclude it, later, was a wanton violation of the rights of the South—by which he always meant slaveholders of the South. In order to give any plausibility to his argument he had first to import into the Constitution of the United States a provision, which was not expressed in words, making slavery a *national* and not merely a local institution. As one of the debaters said, "In the estimation of John C. Calhoun the Constitution of the United States is a mere nose of wax to be twisted into any shape desired by the South." When he went outside of the Constitution to find support for his thesis he was met by a mass of contemporary argument and elucidation to show that slavery was in process of extinction everywhere, except in four or five Southern States, and it was confidently believed that it would soon be abolished in all except possibly South Carolina and Georgia.

Judging from the arguments used by other Southern men, two other principles had become firmly imbedded in the Constitution, though not

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<sup>153</sup> Senator Toombs declared that the Mexican law prohibiting slavery was still valid and would so remain; that Congress and not the courts must change the law. He demanded that what was recognized by law as property in the slave-holding States should be recognized in the Mexican territory. "We can permit no discrimination against our section or our institutions, in dividing out the common property of the republic." Stovall, *Robert Toombs*, 61-2.

expressed in its language, or imported by Constitutional amendment. These were:—

1. The line of 36 degrees and 30 minutes north latitude extended from the Mississippi River to the Pacific Ocean, and all States north of that must be free and all States south of that must be slave. This required that California should be divided by that line into two States, one free and one slave. This rested on the so-called "Missouri Compromise," of 1820.

2. No new free State can be admitted to the Union if that would give the free States a majority in the United States Senate. This rests, it was claimed, on uniform practice ever since the State of Vermont was admitted in 1791.<sup>154</sup> It is true that the Constitution was adopted by thirteen States, seven of which were, or soon became, free, and that the free States were in the majority after the admission of Ohio in 1803, and it was nine years before the balance was restored by the admission of Louisiana. It is true that the slave States were in the majority after the admission of Arkansas in 1836, and again after the admission of Florida and Texas in 1845,

<sup>154</sup> The following table shows the order in which new States were admitted, the dates of admission and to which column, free or slave, they belonged.

<i>Name of State</i>	<i>Date</i>	<i>Free</i>	<i>Slave</i>
Vermont.....	1791	1	
Kentucky.....	1792		1
Tennessee.....	1796		1
Ohio.....	1803	1	
Louisiana.....	1812		1
Indiana.....	1816	1	
Mississippi.....	1817		1
Illinois.....	1818	1	
Alabama.....	1819		1
Maine.....	1820	1	
Missouri.....	1821		1
Arkansas.....	1836		1
Michigan.....	1837	1	
Florida.....	1845		1
Texas.....	1845		1
Iowa.....	1846	1	
Wisconsin.....	1848	1	
Totals.....		8	9

and that it was three years before the balance was restored by the admission of Wisconsin.

What a convenient Constitutional provision, which may, or may not, remain in force, as circumstances may require!

The "Missouri Compromise," which gave significance to the parallel of  $36^{\circ} 30'$ , related specifically to the Louisiana Purchase and could be prolonged, by interpretation, to the east or west of its boundaries. The South had already organized three slave States in the Purchase, south of that line, and but one free State had been admitted north of that line.

There was, however, a cry from all parts of the South against the admission of California with a Constitution prohibiting slavery. Newspapers, legislatures, and local conventions demanded that the right of slaveholders to take their slave property with them into all of the newly acquired territory be expressly recognized and secured. On the other hand, Northern Legislatures—Ohio's among them—newspapers and local conventions demanded the immediate admission of California with its free Constitution, and the organization of territorial governments for all the rest of the land acquired from Mexico, with the Wilmot Proviso excluding slavery therefrom. A call was issued for a Southern popular convention to be held at Nashville, June 20, 1850, to consider the interests of the South and take such action as may seem necessary, and open threats of disunion were uttered all through the South. How much of this was mere bluff and chatter, designed to force Congress to take action satisfactory to the slave interest, it is impossible to say.

Henry Clay, however, was greatly alarmed and believed that, now if never before, extreme Southern men meant exactly what they said and that the Union was in imminent danger of being destroyed. He took into consideration all the complaints and

demands made and arguments used by both Northern and Southern men and evolved a series of resolutions, intended to give some satisfaction to all and to call for such concessions on the part of each as could be reasonably hoped for in return for similar concessions by the other. These, with various other resolutions on the same general subject, were referred, April 18, 1850, to a select committee of thirteen, with Clay as chairman, and such men as Daniel Webster and Lewis Cass from the North, and William R. King, James M. Mason and John Bell from the South. On May 8, 1850, the committee submitted a report consisting of three bills and an elaborate argument.

To the North was conceded (?) the admission of California; but this was coupled with, and conditioned upon, the organization of territorial governments in Utah and New Mexico *without* the Wilmot Proviso, and the fixing of the west and north boundaries of Texas so as to exclude any part of New Mexico, for which Texas was to be duly compensated in money. The bill, combining these various measures, was aptly termed the "omnibus bill" by President Taylor.

Another concession to the North was the proposed bill prohibiting the slave-trade in the District of Columbia, thus removing from the Capital one of the most odious features of slavery, though slavery itself was to remain until Maryland chose to abolish it.

Another, wholly illusory, concession to the North was the declaration that the admission of any new State, or States, carved out of Texas should be postponed—until some such State was organized and wanted to come in, when it would be the duty of Congress to admit it!

In return for these concessions (?) to the North, the South was to be given a more effective law for the return of fugitive slaves, three new States to be carved out of Texas, and an even chance to make slave States out of New Mexico and Utah.

The scheme, as a whole, satisfied nobody. President Taylor agreed with anti-slavery men that California was entitled to immediate admission, without any reference to what was done with the rest of the territory acquired from Mexico. He thought the rest should be kept under military rule, until some portion had population and intelligence enough to do as California had done.

President Taylor, who had gradually won the confidence of both Union and anti-slavery men and announced that he would suppress any attempts at dis-union, had a severe attack of cholera morbus after eating dinner July 4th, 1850, and passed away on the 9th.<sup>154\*</sup> His successor, Millard Fillmore, reorganized the Cabinet by appointing Daniel Webster, Secretary of State, Thomas Corwin, Secretary of the Treasury, and John J. Crittenden, Attorney General. Fillmore, himself, and every one of the new appointees favored the compromise.

But it was not until August that it was discovered that by separating the compromise measures, the objectors to one or two might be induced to vote for the others and that a majority could thus be obtained for each, although the several majorities would be differently constituted. In this manner, every one of the measures passed the Senate, although in somewhat modified form. The fugitive-slave law was far more drastic than the bill reported by the committee.

In September, all passed safely through the House of Representatives and the Union was saved once more. The North was thoroughly satisfied with the admission of California as a Free State, and the South, as thoroughly dissatisfied. The South

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<sup>154\*</sup> The deaths of the two Whig Presidents, General Harrison and General Taylor, by similar intestinal troubles, just after it became apparent that they could not be controlled by the extreme pro-slavery men, created a strong suspicion in the minds of anti-slavery men that both had been maliciously poisoned, to make room for more yielding successors.



was greatly pleased, and the North as greatly displeased, with the Fugitive Slave law.

The spectre of four new slave-States instead of Texas and eight new Senators instead of two from that region, was sufficiently disturbing to the North, but everything else paled into insignificance when attempts were made to enforce the new Fugitive Slave Act. The features which made this so obnoxious to Northern people were, (1) that a small army of commissioners was to be appointed by the United States Circuit Courts who should have jurisdiction in all matters relating to the capture and removal of alleged fugitives; (2) that these commissioners were to receive a fee of five dollars if they decided that a claimant was *not* entitled to a certificate giving authority to take and remove the alleged fugitive, and ten dollars if he decided in favor of the claimant; (3) that these commissioners were authorized to appoint persons from time to time to execute such warrants as might be issued for the arrest of alleged fugitives; (4) that such impromptu officers were empowered to summon to their aid bystanders or a *posse comitatus* of the proper county, and *all citizens were commanded to aid and assist in the prompt and efficient execution of this law whenever their services should be required*; (5) that *warrants issued by any commissioner should run and be executed by said officers anywhere in the State within which they are issued*; (6) that any person having a power of attorney from a claimant, duly executed and acknowledged before some legal officer or court of the State where the claimant resided, *was thereby empowered to seize or arrest the alleged fugitive, without process*, and bring him before a court or commissioner of the proper circuit, district or county, whose duty it should be to hear and determine the case of such claimant *in a summary manner*; (7) that *an affidavit of ownership under the seal of the proper court or officer, and another affidavit as to the identity of the person*

whose service or labor is claimed to be due and that he had escaped, should be *sufficient to entitle the claimant or his agent to a certificate authorizing him to arrest and remove such alleged fugitive to the State or Territory whence he was alleged to have escaped*; (8) "*In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence, and the certificates \* \* \* mentioned shall be conclusive of the right \* \* \* to remove such fugitive to the State or Territory from which he escaped and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever*;" (9) "*That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney \* \* \* from arresting such a fugitive \* \* \* either with or without process as aforesaid, or shall rescue, or attempt to rescue, such fugitive \* \* \* from the custody of such claimant, \* \* \* or other persons lawfully assisting; \* \* \* or shall aid, abet, or assist such person so owing service, \* \* \* directly or indirectly, to escape \* \* \* or shall harbor and conceal such fugitive so as to prevent the discovery and arrest such person \* \* \* shall for either of said offenses, be subject to a fine not exceeding \$1,000 and imprisonment not exceeding six months \* \* \* and shall moreover forfeit and pay by way of civil damages to the party injured by such illegal conduct the sum of \$1,000 for each fugitive so lost as aforesaid, to be recovered by action of debt*," etc.; (10) The claimant of any alleged fugitive could apply to any court of record, or judge thereof, in the State where he lived and on proof of ownership and escape have a record made of such facts and also a general description of the person escaping, with such convenient certainty as may be, and a transcript of such record authenticated by the \* \* \* clerk and the seal of the said Court \* \* \* shall be held and taken to be full and *conclusive evidence of the fact of escape and*

*that the service or labor of the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence, if necessary, either oral or by affidavit \* \* \* of the identity of the person escaping, he or she shall be delivered up to the claimant."* \* \* \* *Provided That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid. But in its absence the claims shall be heard and determined upon other satisfactory proofs."*

The above abstract and excerpts point out the objectionable features of a law which was so long that it would fill seven pages in an ordinary 8vo volume.<sup>155</sup>

A wave of indignation swept over the entire North, as soon as the provisions of the new fugitive slave law became known.<sup>156</sup> The Whig party suffered most, because its leaders had been most prominent in bringing forward and advocating the various compromise measures and the Whig administration had used all its influence to promote their enactment into law.

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<sup>155</sup> William Henry Smith in *A Political History of Slavery*, 128-9, says: "The bill reported by Mr. Clay from the special committee of thirteen proposed to effect this in a way that would have been a safe guard to free colored persons beyond anything in the original law, and without disturbing the peace of communities where arrests should be made. \* \* \* As passed, the fugitive slave law was a very different measure, without safe guard for the slave, harsh and repugnant to the sentiments of humanity. \* \* \* If Northern representatives had not shirked their duty it would have been defeated or amended to conform to the original report." Clay was absent on account of ill health when this bill was passed. Rhodes, *History of the United States*, Vol. I., 182-3, says: "On August 23d the Fugitive Slave law was ordered to be engrossed for a third reading, which was equivalent to its passage, buy a vote of 27 to 12. The nays were eight Northern Whigs. \* \* \* three Northern Democrats, and Chase; there were fifteen Northern senators who did not vote. \* \* \* On September 12th, the Fugitive Slave law was carried through the House, under the operation of the previous question, by 109 to 76. \* \* \* Thirty-three representatives from the North were either absent or paired or dodged the vote."

<sup>156</sup> In a letter to J. T. Trowbridge, of Somerville, Mass., quoted in Warden, p. 336, Senator Salmon P. Chase said they were "opposed by a majority of the Ohio Representatives. They were almost universally denounced by the Democratic press in Ohio, and for a time it seemed possible that they might be repudiated by the northern Democracy."

On October 11, 1850, a little over three weeks after the passage of the Fugitive Slave law, a large meeting of citizens of Cleveland was held in Empire Hall, at which a committee on Resolutions was appointed, consisting of Joel Tiffany, Reuben Hitchcock, H. V. Willson, then, a partner of Henry B. Payne, two years later, Democratic candidate for Congress, and later still Judge of the United States District Court for the Northern District of Ohio, O. H. Knapp, and G. A. Benedict, editor of the Cleveland Herald. They reported as follows:—

"1. *Resolved*, That the passage of the Fugitive Law was an act unauthorized by the constitution, hostile to every principle of justice and humanity, and, if persevered in, fatal to Human Freedom.

"2. *Resolved*, That that law strikes down some of the dearest principles upon which our fathers predicated their right to assert and maintain their independence, and is characterized by the most tyrannical exercise of power; and that it cannot be sustained without repudiating the doctrines of the Declaration of Independence, and the principles upon which all free governments rest.

"3. *Resolved*, That tyranny consists in the wilfully violating by those in power of man's natural right to personal security, personal liberty, and private property; and it matters not whether the act is exercised by one man or a million of men, it is equally unjust, unrighteous, and destructive of the ends of all just governments.

"4. *Resolved*, That regarding some portion of the Fugitive Law as unconstitutional, and the whole of it as oppressive, unjust, and unrighteous, *we deem it the duty of EVERY GOOD CITIZEN to denounce, oppose and RESIST*, by all proper means, the execution of said law, and we demand its immediate and unconditional repeal, and will not cease to agitate the question and use all our powers to secure that object, until it is accomplished."<sup>157</sup>

In October, 1850, an indignation meeting was held at Canfield, Mahoning County, Ohio, addressed by B. F. Wade, Whig, afterwards Senator from Ohio, Rufus P. Ranney, Democratic candidate for Congress

<sup>157</sup> *Cleveland Leader*, April 14, 1859. *Cleveland Herald*, April 15, 1859. *Western Reserve Chronicle*, April 20, 1859.

in 1848, afterwards candidate for Governor of Ohio and, later still, elected Judge of the Ohio Supreme Court; Matthew Birchard, Democrat, afterwards Judge of the Ohio Supreme Court; Milton Sutliff, Democrat, afterwards Judge of the Ohio Supreme Court, John Hutchins, Whig, afterwards Member of Congress, and Eben Newton, Free Soiler. These men were all prominent citizens and, between them, represented all political parties and most of the people of the Western Reserve. The following account of the meeting and the resolutions adopted are copied from the *Ohio Republican*, of November 8, 1850.

"The assembled multitude listened with great attention, to the thrilling eloquence and burning indignation of the several speakers, and repeatedly gave evidence of their approbation by shouts of applause.

The resolutions reported by the committee were as follows, and were unanimously adopted:

*Resolved*, That we regard the "fugitive act," passed by Congress, not only as a gross outrage upon humanity, but as a direct infringement upon the principles upon which our government is founded, and which should ever be maintained by a free people.

*Resolved*, That in striking down, as the makers of this law fain would do, at a blow, the right of trial by jury, and habeas corpus, the right of appeal, the privilege of counsel, and cross examination of witnesses, they have attempted to annihilate the work of progress in the civil history of the world, and to bring back the dark ages of despotism and absolute rule, against which the Constitution of the United States meant effectually to guard by its explicit and solemn guarantee of these inestimable rights.

*Resolved*, That we will unceasingly agitate the question, which this act was designed to settle, till the act is repealed and slavery abolished in all places within the constitutional authority of the general government.

*Resolved*, That the acceptance of the office of Commissioner or Marshal under this act, by any person claiming the privileges of American citizenship, and brotherhood with men, will, as it deservedly should, brand him as a traitor to humanity; and we hope that no man can be found in our

community base enough and bold enough to accept the work of infamy.

*Resolved*, That we will not, under any political necessity whatever, vote for any man for any office of trust, profit or honor, who voted for or aided, directly or indirectly, in the passage of the act, or approves of its infamous provisions, or aids in its execution.

The following resolution was offered by Judge Brownlee, and unanimously passed with a hurricane of shouts:

*Resolved*, That, come life or come imprisonment—come fine or come death—we will neither aid nor assist in the return of any fugitive slave, but, on the contrary, we will harbor and secrete, and by all just means protect and defend him, and thus give him a practical God speed to liberty.<sup>158</sup>

The Congressional elections in the fall of 1850, resulted in sending to the House of Representatives 140 Democrats—a gain of 22, 88 Whigs—a loss of 23—and 5 Free Soilers—a gain of 3.<sup>159</sup> Although the Whig party had always contained more abolitionists than the Democratic, the Wilmot Proviso had its origin among the Democrats and was looked upon with no favorable eye by many leading Whigs.<sup>160</sup> The Wilmot Proviso was drafted by Judge Brinkerhoff, Democratic congressman from the Mansfield District, Ohio, and presented by David Wilmot, a Democratic

<sup>158</sup> Reproduced in *Ohio State Journal*, July 18, 1859; See also *Mahoning Register*, July —, 1859. *Norwalk Reflector*, July 26, 1859; and *Painesville Telegraph*, July 14, 1859. The following is an extract—italics, capitals and all—from a report of the meeting, published in the *Mahoning Index*, of Canfield, O., November 1, 1850, and republished in the *Western Reserve Chronicle*, of Warren, O., October 5, 1859; and *Mahoning Register*, September 22, 1859.

"Next upon the forum was called by the united voice of the meeting Rufus P. Ranney, of Trumbull, a distinguished delegate, to make our Constitution—one of the brightest minds in Ohio, and an old Democrat and nothing else in politics! He exposed not only the INFAMOUS MANNER in which the bill was rushed through the House under the gag rule of the Southern and infamous oppressors but in SCATHING AND BLISTERING CURSES denounced the whole bill as UNCONSTITUTIONAL(!) and the miscreants who assisted in its passage by their votes, or fleeing when God and their duty required their aid in behalf of liberty and the rights of blood and life as unworthy of our regard—AS UNWORTHY OF OUR SUFFRAGE—now or hereafter."

<sup>159</sup> McKee, *National Conventions & Platforms*, 73.

<sup>160</sup> Chase to Trowbridge, Warden, *Life of Chase*, 314.

Congressman from Pennsylvania. The Southern wings of both parties, while differing upon such matters as internal improvements at national expense, protective tariffs, etc., were in accord in all matters touching slavery. In Ohio, the Democrats were apparently quite as much opposed to the extension of slavery as the Whigs, until it was made plain that northern Democrats could not hope for recognition from a Democratic administration and appointment to office, while they entertained such sentiments. At a Democratic State Convention held in Columbus, January 8, 1848, Allen G. Thurman, afterwards Democratic candidate for Governor of Ohio, offered, among other resolutions which were adopted, the following:—

*“Resolved, That the people of Ohio, now, as they always have done, look upon the institution of slavery in any part of the Union, as an evil and unfavorable to the full development of the spirit and practical benefits of free institutions; and that entertaining these sentiments they will, at all times, feel it to be their duty to use all power, clearly given by the terms of the National compact, to prevent its increase, to mitigate, and finally, to eradicate the evil.”*<sup>161</sup>

This resolution was re-adopted by the Democratic State Conventions of 1850, 1852, 1853, 1854 and 1855, thus justifying to some extent the hope expressed by Chase that the Democratic party might become the great opponent of the slave power. In 1850, that party elected their candidate for Governor, Reuben Wood, by a plurality of 26,106, over Samuel F. Vinton, and a majority of 9,126 over all. 16,918 votes were cast for Samuel Lewis, Free Soiler. The Whigs had elected their candidate for Governor in 1848 by a vote of 29,118 greater than they gave to Vinton in 1850. It cannot be doubted that the decline in the Whig vote was due to the passage of

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<sup>161</sup> Warden, *Life of Chase*, 316-7; *Painesville Telegraph*, Aug. 4, 1858; *Guhnrsey Times*, Sept. 16, 1858.

the Fugitive Slave law for which the Whig administration was held responsible.

In the Presidential election of 1852 both Democratic and Whig parties endorsed the "Compromise Measures" including "the act for reclaiming fugitives from service or labor," and both agreed to abide by and insist upon the strict enforcement of all acts passed in pursuance of the compromise and to resist all attempts to reopen the slavery question.<sup>162</sup> The anti-slavery Democrats, who revolted in 1848, returned to their allegiance being satisfied that peace with compromise was better than continual wrangling, but the "Progressive Whigs" and Free Soilers either refrained from voting or voted for John P. Hale. The result was an overwhelming victory for the Democrats—Pierce having a plurality of 214,896 in the popular vote and receiving the electoral vote of all but four States—Massachusetts, Vermont, Kentucky and Tennessee.<sup>163</sup> The Democrats secured a majority of 14 over all in the United States Senate, and a two to one majority in the House of Representatives. The Whig party had perished in its attempt to "save the Union."

In his message to Congress, December 5, 1853, President Pierce ushered in the era of harmony and good feeling with the following words:—

<sup>162</sup> The Democrats resolved to "abide by, and adhere to a faithful execution of the acts known as the 'compromise' measures settled by the last Congress—the act for reclaiming fugitives from service or labor" included," and further to "resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made." McKee, 76. The Whigs proclaimed "that the series of acts of the Thirty-second Congress, the act known as the Fugitive Slave Law included, are received and acquiesced in by the Whig party \* \* \* as a settlement in principle and substance of the dangerous and exciting questions, which they embrace, and \* \* \* will maintain them and insist upon their strict enforcement until time and experience shall demonstrate the necessity for further legislation \* \* \* and we deprecate all further agitation of the question thus settled as dangerous to our peace and will discountenance all efforts to continue or renew such agitation, whenever or however the attempt may be made." McKee, 79, 80. The striking similarity in the language of these resolutions indicates a common origin, or that the Whig Convention had copied this part of its Platform from that adopted by the Democrats less than two weeks before in the same city—Baltimore."

<sup>163</sup> McKee, *Conventions & Platforms*, 84, 85.



"the year 1850 will be recurred to as a period filled with anxious apprehension. A successful war had just terminated. Peace brought with it a vast augmentation of territory. Disturbing questions arose bearing upon the domestic institutions of one portion of the Confederacy and involving the constitutional rights of the States. But notwithstanding the differences of opinion and sentiment which then existed in relation to details and specific provisions, the acquiescence of distinguished citizens, whose devotion to the Union can never be doubted, has given renewed vigor to our institutions and restored a sense of repose and security to the public mind throughout the Confederacy. That this repose is to suffer no shock during my official term, if I have power to avert it, those who placed me here may be assured."<sup>164</sup>

In the fall of 1848, Rufus P. Ranney, one of Ohio's lawyers, then a Democratic candidate for Congress, wrote as follows, in answer to a letter of Judge B. F. Hoffman, of Warren, asking him to define his position on the questions of the day:—

"I am in favor of maintaining the freedom of the territories of New Mexico and California in their whole extent, and **UTTERLY OPPOSED** to *authorizing slavery or involuntary servitude of any kind within them, or to any compromise, which shall doom any part of them to the curse of human bondage.* \* \* \* It is conceded that these territories are now free. They must remain so until changed by positive law of the sovereign power. No question is better settled in this country than that slavery exists in a country by virtue of the local law. It is clear that it can no more exist in a territory without such law, than a man can breathe without air. Neither Congress nor a territorial Legislature, in my opinion, possess the power to establish it. It can only be done by the people *when admitted as a State* under the general principles of the Constitution. *I have no doubt of the power of Congress to erect a Territorial Government, and to provide for the prohibition of slavery within the territories,* AND I AM IN FAVOR OF AND WOULD SUPPORT SUCH PROHIBITION."<sup>165</sup>

The Cleveland Plaindealer, the leading Democratic paper in Northern Ohio, set forth the views

<sup>164</sup> *Messages & Papers of the Presidents*, V., 222.

<sup>165</sup> *Western Reserve Chronicle*, Oct. 4, 1848 and Sept. 3, 1856. *Ohio State Journal*, July 8, 1859, *Mahoning Register*, July —, 1859.

of the Democratic party as to the Compromise Measures in the following language:—

“By the Constitution of the United States, (art 5 of amendments,) no person can be ‘deprived of life, liberty or property, without due process of law.’ Every person in this State is entitled to the protection of this provision, and there is a similar provision in our State Constitution.

“‘*Due process of law*’ is not a summary proceeding before a Commissioner appointed under an act of Congress. The judicial power under the United States Constitution is vested in one Supreme Court, and in such inferior Courts as Congress may establish. Commissioners cannot exercise judicial function over *life and liberty*. That is not ‘due process of law.’ If any person is arrested under this act, upon the warrant of any commissioners, he should be immediately taken before a State Judge upon *habeas corpus*, by whom some of the provisions of the act can be adjudicated to be unconstitutional. Congress cannot suspend the privilege of the writ of *habeas corpus*, except in cases of rebellion, or invasion. It is the right of every man to have this; and no judge can refuse to allow it, without the most severe penalty.”<sup>146</sup>

“‘Out! d——d Spot!’

This quotation from Macbeth will apply with as much appropriateness to the late fugitive law, as it did in its original utterance to that black spot of guilt which the wicked murderer in the play could not wash out.

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“The institution of slavery is an anomaly in civilized governments, an exception to liberty everywhere, and a most outrageous contradiction to our pretensions as a Model Republic. It was barely sufferable in this country sixty years ago, and unfortunately recognized in one of the compromises of the Constitution. \* \* \* But no framer of that Constitution, no indorser of its compromises ever dreamed that slavery would exist in this country at this day. Every act of Congress that has tended to support or perpetuate in the least this institution, has been in violation of the *intent* of the original framers of that instrument. This fugitive Slave Law is one of that character, and were its operations, like most other slave laws, confined to the slave States, it might escape repeal. But this is not the case; its operations are wholly in the *free States*, and to be executed, if executed

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<sup>146</sup> *Cleveland Plaindealer*, October 23, 1850.

at all, by *free men*. The service it requires is not the kind we owe to either, God, man, or the devil."<sup>167</sup>

The annexation of Texas opened a new market and greatly increased the demand for slaves. An able bodied negro would bring from \$1,000 to \$1,500; able bodied women, from \$800 to \$1,200; and children from \$200 to \$1,000 according to age and condition.<sup>168</sup> Men who captured negroes in free territory and delivered them to claimants, true or false, in slave territory, were well paid—more if the claim was a false one than if it was true. The usual commission was one-half the value of the negro, or, if sold, one-half the price received. Man stealing was rendered by the Fugitive Slave Act easy of accomplishment and it was much more profitable and far less dangerous than horse stealing. The United States protected him against any interference on the part of anybody. This law was a direct incentive to crime and slave hunters were soon plying their trade in Ohio, as in other Northern States.

On March 20, 1851, the Legislature of Ohio adopted a "RESOLUTION Relative to the abduction of the children and grandchild of Peyton Polly," which illustrates the evil wrought by the Act:

"WHEREAS, it has been represented to this General Assembly, that on the night of the sixth of June last, seven of

<sup>167</sup> *Cleveland Plaindealer*, October 30, 1850.

<sup>168</sup> The following item from the *Louisville Courier*; November 15, 1858, copied in the *Painesville Telegraph*, November 25, 1858, is illuminating:

"SALE OF FARM AND NEGROES—The farm of the late Isaac Owings, in Jefferson county, on Harrod's creek, about ten miles from the city, together with several negroes, a quantity of stock, etc., were sold at public sale on Thursday last by order of the administratrix. The farm, containing about 200 acres of good land sold at \$60 per acre, Ralph Tarlton, Esq., being the purchaser. The stock, etc., generally, brought good prices. The negroes brought the following round sums:

1 boy aged 13.....	\$1,310
1 boy aged 19.....	1,475
1 man aged 28.....	1,400
1 man aged 30.....	1,015
1 woman aged 32 with 3 children under 6 years....	1,850
1 woman aged 37 with 3 children under 7 years....	1,900

The slaves were sold on a credit of twelve months, and were, with one or two exceptions, we believe, bought by the heirs.—*Louisville Courier*, 15th."

the children and one grandchild of Peyton Polly, all said to be free colored persons, residing in Lawrence county, in this State, were forcibly seized and carried into Kentucky, and are there now held in slavery, contrary to law; and whereas, it is also represented that said Peyton Polly is poor, and unable to raise the pecuniary means necessary to procure counsel to test, in a court or law, the right of his said children and grandchildren to their liberty; Therefore,

*"Resolved, \* \* \** That the Governor be, and is hereby directed to inquire into the facts of said alleged seizure and abduction; and if on such inquiry, he shall become satisfied that said representations are probably true, that he shall employ counsel, and adopt such other measures as shall conduce most speedily to restore said persons to their liberty; and that the costs and expenses be paid from his contingent fund."<sup>100</sup>

A sequel to this interesting case is found in a "JOINT RESOLUTION Relative to the Kidnapping of the Polly Family," adopted by the Ohio Legislature, March 10, 1860:—

*"WHEREAS*, On the night of the 6th of June, 1850, seven of the children and one grandchild of Peyton Polly, all free persons of color, residing in Lawrence county, were forcibly seized with a view of reducing them to slavery, that four of them were arrested in the state of Kentucky on their way to a southern slave market, and after protracted litigation were declared free persons by the courts of that state, and returned to their homes; and whereas, four of said persons of color were sold into slavery in the county of Wayne, in the state of Virginia, and are now held in bondage there; and whereas, suit was instituted in the county of Cabell, in said state of Virginia, for the freedom of said last mentioned colored persons, and were declared free by the judgment of the circuit court of Cabell county, which judgment was afterwards reversed by the court of appeals, on the ground that the actual residence of the defendant was in Wayne county, and the Cabell county court had no jurisdiction of the cause; that said proceedings were removed to the county of Wayne, and are now pending; Therefore,

*"Be it resolved \* \* \** That the governor be and he is hereby authorized to expend any sum not exceeding one thousand dollars for the purpose of defraying expenses of

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<sup>100</sup> O. L., XLIX., 811-12.

said litigation; that the standing committee of finance be instructed to provide for the same in the general appropriation bill; and that the governor be requested to take such measures as he, in his judgment, may deem necessary for the speedy and successful termination of said proceedings."<sup>170</sup>

In the winter of 1849-50, the Ohio Senate adopted the following Joint Resolution by a vote 25 to 3 in the Senate, only two Democrats and one Whig voting in the negative:—

*"Resolved, That the sentiment of the freemen of Ohio is, No More Slave Territory; that Congress has the power, and should apply the Ordinance of Congress of 1787, so far as it relates to slavery, to all the territories of the United States; that Congress has the power, and should immediately exercise it, and abolish slavery, and the slave trade in the District of Columbia, the coast-wise and inter-state slave trade; that the government of the United States should cease to legislate for, and to promote slavery, but legislate for, and promote liberty; and upon this subject there should be no compromise."*

Among those voting for this resolution were Henry B. Payne, of Cleveland, afterwards Democratic Senator from Ohio, and Henry C. Whitman, of Cincinnati, afterwards Democratic candidate for Supreme Court Judge.<sup>171</sup>

In the session of the Ohio Legislature following the enactment of the Compromise Measures, Milton Sutliff, Senator from Warren, afterwards Supreme Court Judge, offered, December 11, 1850, a series of resolutions, among which were the following:

*"Resolved, That among the powers delegated to the General Government, by the Constitution, that of legislating upon the subject of Fugitives from justice is not to be found; while that of depriving any person of life, liberty, or property, without due process of law, is expressly denied."*

*"Resolved, That in the judgment of this General Assembly the act of Congress in relation to Fugitives from service, approved Sept. 18th, 1850, is unconstitutional; not merely for want of power in Congress to legislate upon the subject,*

<sup>170</sup> O. L., LVII., 320-1.

<sup>171</sup> *Ohio State Journal*, June 1, 1859.

but because the provisions of the act are, in several important particulars, repugnant to the express provisions of the Constitution.

*"Resolved,* That it is the duty of the several courts of this State, to allow the writ of habeas corpus to all persons applying for the same in conformity with the laws of this State, and to conform in all respects in subsequent proceedings to the provisions of the same."

In the afternoon of the same day, they were taken up and two additional resolutions added, declaring the fugitive law "further objectionable, because of its inhumanity—its disregard of the natural and inalienable rights of man, and its hostility to the spirit of the age of progress in which we live," and instructing our Congressmen to use "their best endeavors for its immediate repeal."<sup>172</sup>

These resolutions were discussed at length in Committee of the Whole, and after various amendments were proposed, were adopted by both Houses, March 24, 1851, in the following form—Henry B. Payne and other good Democrats voting for them:—

*"Resolved,* \* \* \* That while this General Assembly would urge the faithful observance of law upon all the people of this State, and of her sister States of the Union, as the most effectual mode of promoting their best interests, as well as a high duty they owe alike to themselves and their common country, would most earnestly recommend to Congress, the necessity of so amending and modifying the provisions of the 'Fugitive Slave Law,' that while it secures a faithful compliance with all the obligations imposed by the constitution of the United States, it will, as becomes a free government, guard with a zealous care the rights of the freeman. And if said law, in the opinion of Congress, cannot be so amended as to give to persons claimed as Fugitives from labor, the benefit of every legal defence of their liberty, we then recommend the repeal of said law.

*"Resolved,* That the law commonly called the 'Fugitive Law,' being a law that makes ex parte evidence conclusive of the master's right to recapture and return his slave; that denies a jury trial here or elsewhere; that provides for the appointment of swarms of petty officers to execute it;

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<sup>172</sup> *Ohio State Journal*, June 1, 1859.

that gives a double compensation to find every claim set up in favor of the master; and pays the expenses in any case from the public treasury; ought never receive the voluntary co-operation of our people, and ought therefore to be immediately repealed."<sup>173</sup>

The Democrats had contrived, by their early acceptance of the "Compromise" and declaration against any renewal of slavery agitation, to secure credit for the promised rest from sectional strife, while casting upon the Whigs all the odium for its objectionable features.

In the fall election of 1853, the Ohio Democrats elected their candidate for Governor, William Medill, by a plurality of 61,806 over Nelson Barrere, the Whig candidate, and secured a large majority in both branches of the Legislature, which they utilized by electing George E. Pugh to the United States Senate to succeed Salmon P. Chase. Thousands of Whigs did not vote at all. Those who did, gave to Barrere only 85,857 votes, and to Samuel Lewis, Free Soiler, 50,346. Notwithstanding this overwhelming victory over a disheartened and divided enemy, the Democratic party of Ohio did not succeed in electing another Governor for twenty years.

At the next gubernatorial election in 1855, Governor Medill, renominated by the Democrats, was defeated by Salmon P. Chase, the candidate of the Republican party, which then made its first appearance in Ohio State politics. To appreciate the extent of this reversal one must add to Chase's plurality of 15,751 over Medill, 24,276 votes cast for Allen Trimble, the American (Know-nothing) candidate, making the total opposition majority 40,027.

In the Congressional elections of 1854 the Republicans had elected 108 members, and the Americans, 43, making an opposition majority in the House of 68.<sup>174</sup>

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<sup>173</sup> O. L., XLIX., 814.

<sup>174</sup> McKee, *Conventions and Platforms*, 86.

In the Presidential election of 1856, James Buchanan, Democratic candidate, polled 377,629 less votes than John C. Fremont, Republican, and Millard Fillmore, American.<sup>175</sup> Ohio gave Fremont 187,497, Fillmore 28,126, and Buchanan, only 170,874—a minority of 44,749. Buchanan was elected by a majority of 52 electoral votes, but the Democrats did not elect another President for twenty-eight years.

What caused this sudden and long continued loss of public favor?

The "Compromise Measures" had been approved—theoretically; but every attempt to enforce the Fugitive Slave law, with its harsh and unjust features, in any northern State, created indignation in the community where the attempt was made. The spectacle of a non-resident coming into a State and carrying off a colored resident of the State, without giving him any chance to prove his right to liberty before a court or jury in the place where he resided, without even giving him a chance to testify in his own behalf, was too much for the Anglo-Saxon love of fair play. Democratic administrations and all their officials were afflicted with, what is now termed, "defective psychology."

The things they did, with a view to awing the people into a strict observance of this law, simply exasperated them and led to determined opposition. When the Democratic mayor of Boston used three hundred armed police to escort the poor negro, Sims, from the office of U. S. Commissioner George Ticknor Curtis, to the Long Wharf and put him on a vessel bound for Savannah, and filled Faneuil Hall, that "Temple of Liberty," with State militia to assist the police, if necessary, in sending one negro back to slavery, natural inquiries arose in the minds of spectators. Is Massachusetts, then, a slave State?

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<sup>175</sup> McKee, *Conventions and Platforms*, 103.



Are all the resources of a city government, supported by taxes levied upon our property, to be placed at the disposal of any Southern planter who may choose to claim a negro residing in our midst? That night, bells were tolled in the churches of Boston and many of the neighboring cities. Public meetings were held in which the Fugitive Slave law was denounced in unmeasured terms and opposition to an administration and a party which would lend itself to such base uses grew with tremendous rapidity. Similar scenes were enacted, with similar results, in New York and Pennsylvania. In the latter state a United States marshal employed a force of United States Marines to secure the delivery of an alleged fugitive.

Most of the Ohio cases arising under the Fugitive Slave law of 1793 originated in Southern Ohio, and the Western Reserve was not vexed with seizures of alleged fugitives or suits against philanthropic individuals for hindering and obstructing such seizures, until February, 1845, when a man named Mitchell, claiming to have a power of attorney from one Driskell, appeared with Driskell's son at the house of Francis D. Parish, a prominent lawyer and much respected citizen of Sandusky, Ohio, and sought to take Jane Garretson, a colored woman working as a servant in Parish's house, and her five year old boy. Parish said that a power of attorney was not sufficient and that he must have some judicial authority before he would let them take Jane and her boy. All he wanted, was a fair trial in some court of the question of the claimant's ownership. On this, Mitchell and Driskell withdrew, and suit was brought against Parish "for hindering and obstructing the arrest of Jane Garretson, a colored woman, and her son, slaves of the plaintiff, and for harboring or concealing them."

On the first trial of the case at the July Term of the United States Circuit Court, before Mr. Justice McLean and a jury, the plaintiff was represented by

Henry Stanbery, the Attorney General of Ohio and afterwards Attorney General in President Johnson's Cabinet, and Mr. Parish was represented by Ebenezer Lane, ex-Judge of the Supreme Court of Ohio and Salmon P. Chase. Justice McLean charged the jury that the claimant or his agent might lawfully arrest fugitives for the purpose of taking them out of the State *without judicial sanction*—

“according to the doctrine laid down by a majority of the judges in the case of *Prigg v. Commonwealth of Pennsylvania*, 16 Peters, 539. \* \* \* It sweeps aside State laws and State sovereignty, and enables an individual who claims to act as agent to take any person, white or colored, as a fugitive from labor, without any exhibition of his personal authority, or of the claims of the master. \* \* \* If he act without authority no person who ‘hinders’ the arrest incurs the penalty.”<sup>176</sup>

And, on the second ground, the jury were instructed that:—

“To harbor or conceal a fugitive from labor, within the meaning of the statute, it must be done with a view to elude the claim of the master. If a shelter be afforded to the fugitive for an hour, a day, or a week, when there is manifestly no design to conceal him from the pursuit of the master or his agent, or in any way to defeat the legal right of the master to his service, there is no violation of the statute.”

The jury, after being out several hours, disagreed and were discharged.<sup>177</sup>

On a second trial before U. S. District Judge Leavitt and a jury at the November Term, 1849, Henry C. Noble was associated with Attorney General Stanbery, and Thomas Corwin and J. W. Andrews assisted Judge Lane. The Judge charged the jury that:—

“it is clear that the penalty of the statute may be incurred, without a resort to violence, in hindering or obstructing an arrest. \* \* \* If, after knowledge of the fact that a

<sup>176</sup> Driskill v. Parrish, 3 McLean, 634-5.

<sup>177</sup> Ibid., 653-4.

person is a fugitive, a demand is made to arrest on the premises of another and refused, such refusal subjects the party to legal liability."<sup>178</sup>

In conclusion the judge said:—

"If the plaintiff has suffered a wrong, for which the law gives him redress, it is the plain duty of the court and jury to aid him in obtaining that redress. It cannot be disguised, that the subject of slavery is at this time a fruitful source of public agitation. Unfortunately, it has become a chief element of political excitement in our country. Whatever may be our individual views of this subject, it is clear, we shall best acquit ourselves of the responsibility now resting upon us, by taking care that the rights of the parties to this action are in no way affected by the existing state of public feeling, on the question of slavery. In Ohio, popular sentiment is no doubt strongly against that institution; and, there are few, if any, of her citizens who do not rejoice, that its admission into the State is precluded by a barrier, that may well be deemed insurmountable."<sup>179</sup>

The jury returned a verdict for the plaintiff on the count for "hindering and obstructing the arrest"—assessing the damages at \$500, and for the defendant on the count "for concealing and harboring."

Numerous cases arose in central and southern Ohio, under the Fugitive Slave Act of 1850—among them that of the wholesale kidnapping of the Polly family in Lawrence county, heretofore noted.<sup>180</sup> Another which attracted much attention was that of the minor negro girl, Rosetta, who was taken from an agent of a Kentucky master under a writ of *habeas corpus* issued by a Franklin county judge and placed under the guardianship of a citizen of Columbus, and then taken from the custody of the legally appointed guardian, under a writ of *habeas corpus* issued by Justice McLean of the United States Supreme Court. This case was argued on behalf of Rosetta by ex-Senator Chase, ex-Judge

<sup>178</sup> *Driskill v. Parrish*, 5 McLean, 72-3.

<sup>179</sup> *Ibid.*, 75.

<sup>180</sup> *Supra*, pp. 104-5.

Timothy Walker and Rutherford B. Hayes, whom Chase described in a letter to J. T. Trowbridge as "a young lawyer of great promise," and who "acquitted himself with great distinction in the defense of Rosetta before Pendery," the U. S. Commissioner. The claimant was represented by Senator George E. Pugh, ex-Judge Flynn and a Mr. Wolf, of Louisville.<sup>181</sup>

Another case was that of the Garner family, besieged by slave-hunters in a cabin in Storrs township, Hamilton county. The mother, crazed at the prospect of her children being condemned to a life of slavery, seized a butcher knife and tried to kill them all—succeeding as to one. The survivors were arrested and taken to the Police Station and thence removed under a writ of *habeas corpus* issued by a county judge and placed in the custody of the Sheriff of Hamilton county. A few days later the parents were indicted for the murder of their child. Before trial, they were taken from the custody of the Sheriff under a writ of *habeas corpus* issued by United States Judge Leavitt. The various proceedings resulted in two persons, indicted for murder and in the hands of the proper State officer awaiting trial, being taken away from that officer and carried off to the State of Kentucky by agents of the alleged owner. The "property" of a slave-holder could not be punished for crime, and his rights were declared to be superior to all State laws and the rights of society.<sup>182</sup>

Another case grew out of the arrest, by deputy-Marshals and Kentuckians engaged in a slave-hunt in Champaign county, of four citizens of that county accused of hindering and obstructing them in their enterprise. The friends of the prisoners secured a

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<sup>181</sup> Warden, *Life of Chase*, 344-5. A very noticeable feature of all these cases is the high professional standing of the counsel engaged and the fact that poor ignorant negroes could command the services of such men.

<sup>182</sup> Warden, *Life of Chase*, 346 to 350 incl.

writ of *habeas corpus* and placed it in the hands of the Sheriff who undertook to serve it, but was beaten and shot at by the slave-hunters. Another writ of *habeas corpus* was sued out in Greene county and the Sheriff of this county, being forewarned, took with him a posse large enough to overcome the deputy-marshals and slave-hunters after a brief fight in which pistols were again used. The deputy-Marshals gave bail for their appearance and the slave-hunters were lodged in the Xenia jail. United States Judge Leavitt issued a writ of *habeas corpus*, brought the slave-hunters before him and discharged them. Senator George E. Pugh and Clement L. Vallandigham argued the case for the Kentuckians and the Attorney General of Ohio appeared for the Sheriff. Again it appeared that the Courts of Ohio could issue no writs which a wandering slave-hunter was bound to respect.<sup>183</sup>

Another hard case arose in Ross county, where a colored man named Lewis Early, a former slave of G. Kilgour of Cabell county, Va., brought free papers with him to Ohio and deposited them for safe keeping with J. Robinson, who gave him employment. In October, 1856, Robinson's house was burned and Early's papers were destroyed, which fact became known in the neighborhood. On March 25th, Early was seized by U. S. officials and hurried before U. S. Commissioner C. C. Browne at Cincinnati, who ordered him to be delivered to J. Kilgour, as son and agent of G. Kilgour, although Robinson testified as to the free papers and their loss by fire. Application for a writ of *habeas corpus* was made to Judge Leavitt, but before the papers could be made out, the claimant and his friends carried Early over into Kentucky and out of the jurisdiction of the Court.<sup>184</sup>

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<sup>183</sup> Warden, *Life of Chase*, 350-1.

<sup>184</sup> *Cleveland Leader*, April 8, 1859. The *Leader* adds, "No person of reputed African descent' is safe for an hour so long as known man-stealers are tolerated on free soil."

He was sold in Louisville for \$1,150, out of which Kilgour received only \$425. The *Louisville Courier* said: "He will go to the South and exercise himself a while in the empire of King Cotton."<sup>185</sup>

The Ohio Legislature elected in the fall of 1856 made several efforts to at least mitigate the evils now apparent in the practical operation of the Fugitive Slave Law. They passed "AN ACT To prohibit the confinement of fugitives from slavery in the jails of Ohio,"<sup>186</sup> "AN ACT To prevent Slaveholding and Kidnapping in Ohio,"<sup>187</sup> and "AN ACT To prevent Kidnapping."<sup>188</sup> The second act was intended to cover cases like the Rosetta case, where a slave is brought into Ohio by an owner or his agent and held there indefinitely. In such a case, as the earlier decisions declared, the Constitutional provision for the reclamation of fugitive slaves and laws made in pursuance thereof did not apply. The third act provided:—

"That no person or persons shall arrest and imprison, or kidnap, or forcibly or fraudulently carry off or decoy out of this State any free black or mulatto person, or attempt" [to do so].

"That no person or persons shall kidnap or forcibly or fraudulently carry off or decoy out of this state any black or mulatto person \* \* \* claimed as fugitives from service or labor, or shall attempt" [to do so] "without first taking such black or mulatto person or persons before the Court, judge or commissioner of the proper circuit, district or county having jurisdiction, according to the laws of the United States \* \* \* and there, \* \* \* establishing by proof his or her property in such person."

"That any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof \* \* \* shall be confined in the penitentiary at hard labor for any space of time not less than three years nor more than eight years at the discretion of the court and moreover be liable for all costs of prosecution."

<sup>185</sup> *Cleveland Leader*, April 13, 1859.

<sup>186</sup> O. L., LIV., 170.

<sup>187</sup> *Ibid.*, 186.

<sup>188</sup> *Ibid.*, 221-2.

This Legislature also passed a series of joint resolutions, one calling for a re-formation of the Supreme Court of the United States, of which a majority of the Judges were then appointees from slave-holding States, and requesting our Senators and Representatives in Congress:—

“to use their influence and votes to procure the adoption of such amendments of the laws organizing the federal judiciary, as will give to the several States of the Union that just proportion of the judges of the Supreme Court to which they are entitled by population and business and the equality of weight in the several departments of the government of right belonging to the people of these States.”<sup>189</sup>

Another, “Relative to Slavery and the Extension thereof,” declaring:—

“That the people of Ohio now, as they always have done, look upon the institution of slavery as an evil unfavorable to the full development of the spirit and practical benefits of free institutions; and that entertaining these sentiments they will feel it their duty to use all their power consistent with the national compact to prevent the increase, to mitigate, and finally to eradicate the evil.”<sup>190</sup>

“That the provisions of the ordinance of Congress of 1787, so far as the same relates to slavery, should be extended to all territory of the United States not yet organized into States.

“That our Senators and representatives in Congress are hereby requested to vote against the admission of any State in the Union, unless slavery or involuntary servitude, except for crime, be excluded in the constitution thereof.”<sup>191</sup>

Another, “Relative to the decision in the Dred Scott case; declaring:—

“1st. That this general assembly has observed with regret, that, in the opinion lately pronounced by Chief Justice Taney \* \* \* in the case of Dred Scott against J. H. Sanford occasion has been taken to promulgate extra judicially certain doctrines concerning slavery, not less con-

<sup>189</sup> O. L., LIV., 297.

<sup>190</sup> This will be recognized as one of the planks in the Democratic platform adopted in 1848-1850, 1852, 1853 and 1855.

<sup>191</sup> O. L., LIV., 298.

tradiictory to well known facts of history, than repugnant to the plain provisions of the constitution and subversive of the rights of freemen and free States.

"2d. That in the judgment of this general assembly, every free person, born within the limits of any State of this Union, is a citizen thereof and to deny any such person the right of suing in the courts of the United States, in those cases where that right is guaranteed by the constitution to all citizens of the United States, is a palpable and unwarranted violation of that sacred instrument.

"3d. That the doctrine announced by the chief justice \* \* \* that the federal constitution regards slaves as mere property, and protects the claims of masters to slaves, to the same extent, and in the same manner as the rights of owners in property, foreshadows, if it does not include the doctrine that masters may hold slaves as property within the limits of free States, during temporary visits, or for purposes of transit, to the practical consequences of which doctrine no free State can submit with honor.

"4th. That the doctrine also announced in behalf of a majority of the court that there exists no power in the general government to exclude slavery from the territories of the United States subverts the spirit of the constitution, annuls the just authority of the people of the United States over their own territories, and contradicts the uniform practice of the government.

"5th. That the general assembly, in behalf of the people of Ohio, hereby solemnly protest against these doctrines, as destructive of personal liberty, of State's rights, of constitutional obligations and of the Union; and, so protesting, further declares its unalterable convictions that \* \* \* the fathers of the republic \* \* \* in the constitution, by the comprehensive guaranty that no person shall be deprived of life, liberty, or property, without due process of law, designed to secure these rights against all invasion by the federal government, and to make the establishment of slavery outside of slave States a constitutional impossibility."<sup>1</sup>

These last resolutions command careful perusal by a lawyer-like precision and clarity of statement and a regard for fundamental principles quite exceptional in legislative fulminations. They did not carry the weight and have the influence on public

<sup>1</sup>O. L., LIV., 301.



opinion which they deserved; because, in the fall election, which was held less than six months after their adoption and before they were printed and in general circulation, the Administration Democrats gained a majority in both branches of the legislature and proceeded to undo the work of the preceding legislature.

The reversal was not due to any change in the sentiments of a majority of the people, but to the apathy, commonly observed in the year following an exciting Presidential campaign, and to the tendency of reformers to regard their work as complete when they have once succeeded in incorporating their views in public laws and resolutions. They pat themselves on the back and go to sleep while men stimulated by self interest and political ambition return to the charge and annul all the disinterested reformers have accomplished.

The new Democratic Legislature promptly repealed the act prohibiting the confinement of fugitives from slavery in the jails of Ohio, and the act to prevent slaveholding and kidnapping in Ohio. This was notice to all slave-hunters that the Ohio field was again open for the pursuit of negroes and that no obstacles would be placed in their way. The fact that the third Act above mentioned, relating to kidnapping only, had not been repealed, seems to have escaped general observation.

### THE OBERLIN—WELLINGTON RESCUE CASES.

As might have been expected, there was renewed activity during the summer of 1858 in the profitable business of capturing negroes, hustling them out of the State, selling them for the \$1,000 to \$1,500 which each would bring, and dividing the proceeds. There was no way in which a brutal man, with little education, could make so much money as in slave

hunting or man stealing, and the "law" had, now, no terrors to restrain him.<sup>193</sup> After the case of *Driskell v. Parish*,<sup>194</sup> the Western Reserve had not experienced the rigors of the Fugitive Slave Laws, of either 1793 or 1850, and there was an unusual influx of colored immigrants from other sections of the State, as well as from the South, who believed that, there, they would be comparatively immune from capture, or annoyance. In the decade 1850 to 1860, there had been a 45% increase in the colored population of Ohio; and in two counties of the Western Reserve the increase had been more than 100 per cent. According to the census of 1860, there were 894 blacks in Cuyahoga county, most of whom were concentrated in the city of Cleveland where concealment was easy and where it was easy to get away on a Lake vessel in case of a raid by slave-catchers. There were 549 blacks in Lorain county, a large percentage of whom were settled in and about Oberlin on account of its educational advantages and philanthropic spirit.<sup>195</sup> The Cleveland, and various county newspapers boasted of the immunity of colored residents from capture and reported with defiant satisfaction the passage through the Reserve to such Lake ports as Conneaut, Ashtabula, Fair-

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<sup>193</sup> *Portage County Democrat*, Sept. 29, 1858, said, "Our National Government is an engine of oppression—James Buchanan is the head slave-catcher. His subordinate co-workers, the agents of the Fugitive Slave Law, are remarkably active in Ohio, the present season." *The Guernsey Times*, Dec. 23, 1858., said, "Ohio has become the arena for slave hunts." See also, *Ashtabula Sentinel*, Aug. 12, 1858, and *Painesville Telegraph*, Sept. 9, 1858.

<sup>194</sup> *Supra*, pp. 110 to 112 incl.

<sup>195</sup> *The Cleveland Leader* said, September 10, 1858, "It is now ten years since any attempt has been made to get possession of fugitives from service in Oberlin. The effort then failed. From that time the few fugitives settled there have dwelt in comparative peace and safety. They have made themselves pleasant homes, accumulated property, improved their minds and educated their children, and have, in all respects, been good citizens;" and again, April 19, 1859, "During the Marshalship of Mr. Jones and Mr. Fitch, the latter the immediate predecessor of Marshal Johnson, not a fugitive was seized in Northern Ohio." and again April 30, 1859, "During the whole of President Pierce's and the half of Mr. Buchanan's Administration no efforts were made in these parts, in a business so odious to the people, and so disreputable to the actors therein."

port, Cleveland, Lorain, Huron and Sandusky, of colored travelers on the safe and well equipped "Underground Railroad."<sup>196</sup>

In the summer of 1858, one Anderson Jennings, of Maysville, Ky., made his third trip to Ohio in search of "likely" negroes, who either had been, or would make, useful slaves. He visited Cleveland, Sandusky, Elyria, and Painesville, Ohio, but did not stay long in either place. He had with him on his visits to Sandusky, Elyria, and Painesville, United States Deputy Marshal A. P. Dayton, of the Northern District of Ohio, who was then a resident of Oberlin. Their errand in Painesville being suspected, they were questioned and warned to leave the place in twenty minutes and they left.<sup>197</sup> Dayton

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<sup>196</sup> The Portage County Democrat, August 4, 1858, said:

"UNDERGROUND R. R.—Some little interest was awakened in Salem, Columbiana County, last week by the appearance of a Virginia slaveholder in that town, in search of a peculiar kind of property recognized in that State [a colored woman, wife of a free-born native of Ohio] \* \* \* Some of the enterprising officers of the U. G. R. R. took the matter in charge and passed the young woman over the road to the dominions of Queen Victoria. The young husband tarried a day or two and passed through this place on Conductor Swayne's train on Monday, to join his wife in a land where slave-drivers, slaveholders' laws and United States Marshals cannot interrupt the peace or infringe upon the rights of free citizens." The *Cleveland Leader* said, Aug. 21, 1858, "U.G.R.R.—We are informed by one who is in the secret that no less than seven slaves, three men and their wives and one child, all the way from Maryland, passed through this city day before yesterday on their way to the Canadas, where they are by this time safely landed."

The *Painesville Telegraph* said, August 26, 1858:—

"The U. G. R. R.—The travel on this line is constant and increasing. Last Monday night some six or seven thousand dollars worth of passengers passed over on the underground track not a thousand miles from these parts." The *Medina Gazette* said, Sept., 1858, "Last Friday night three fugitives from slavery, Kentucky, a man and two women, arrived in this town on their way to Canada. They were very intelligent. Had been about four weeks on the road. \* \* \* Quite a sum of money was raised here for their relief, and they left Saturday morning rejoicing." The *Conneaut Reporter*, January—, 1859, said, "ANOTHER PASSENGER—A 'likely' thousand dollar nigger from Maysville, Ky., passed through here last Saturday evening, toward the North Star. Several of our citizens endangered the perpetuity of the Union to aid his escape." See also *Ashtabula Sentinel*, Aug. 12, Aug. 26, and Sept. 3, 1858, and Jan. 6 and Jan. 27, 1859; *Portage County Democrat*, Aug. 18 and 25, 1858; and *Cleveland Herald*, Aug. 21 and 23, 1858.

<sup>197</sup> *Painesville Telegraph*, Sept. 9, 1858; *Western Reserve Chronicle*, Sept. 8, 1858; *Cleveland Leader*, Sept. 3, 1858. Jennings himself testified in open court about this visit. He said: "Heard my boy Henry was at Elyria; got there, and heard he had gone to Painesville. Went there and found a worse place than Oberlin."

took up his residence in Oberlin just after his appointment as Deputy. He soon became *persona non grata*, as he was suspected of espionage on the colored population and being in close touch with would-be captors. He was implicated in an unsuccessful attempt to capture the Wagoner family about the middle of August, 1858, was recognized and driven off by Wagoner, carrying a shot-gun in his hand and shouting to rouse the neighborhood. On Friday night, August 20, 1858, an attempt was made by four men, Dayton among them, to seize and carry off a negro woman and her children. The shrieks of the woman aroused the neighborhood and there was such a rapid gathering of the citizens that the kidnappers abandoned their prey and disappeared. On Monday night of Commencement week, August 23, 1858, just as President Hitchcock of Western Reserve College had closed his address to the College societies, the attempt was renewed. The fire-bell was rung and the students rushed to the scene of action and again the would-be captors hurried off without their prey. If Dayton had a warrant for the arrest of these persons, he chose a very sneaking and suspicious way of executing it. A mulatto stone-cutter, James Smith, was advised by a correspondent in North Carolina that he had better look out, for Dayton had written to parties there describing him and offering to arrest him if they would send him a power of attorney. Smith met Dayton a few days after getting this letter, accused him of treachery and chased him into the Palmer House, striking him with a hickory cane. <sup>108</sup>

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Never see so many niggers and abolitionists in any one place in my life! Dayton was with me. They give us twenty minutes to leave, and then wouldn't allow us that! There was a crowd of fifty or sixty, armed. Might as well try to hunt the devil there as to hunt a nigger. Was glad to get away as fast as I could. Kept very close at Oberlin. Didn't tell my business to many. Dayton and Warren were at my room."

<sup>108</sup> *Cleveland Leader*, Sept. 10 and 21; and Dec. 14, 1858; *Sandusky Register*, August —, 1858; *Cleveland Herald*, Aug. 28, 1858; *Jeffersonian Democrat*, Chardon,

It may not be out of place for the writer to record, here, some personal recollections of a visit made to Oberlin in August, 1858. One day as he was walking by Wack's Hotel on South Main Street with a cousin, he saw two or three rough looking men sitting on the porch, who were pointed out as "slave-catchers." It was impressed upon him that "slave-catchers" were the most depraved of human beings—worse than thieves, burglars or murderers—and he gave Wack's Hotel a wide berth after that, not only on this visit, but on one he made three years later. I attended some of the Commencement exercises and remember particularly speeches by John C. Hutchins, afterwards a prominent lawyer and judge in Cleveland, and William D. Scrimgeour, a fiery Scotchman, who used plain Anglo-Saxon language and some striking similes. He brought down the house by saying, in regard to slavery, "The day for soft speeches is past. The time for action has come. You'd as well try to knock down this meeting house" (which still stands) "with a *pancake* as to destroy slavery by a string of resolutions."

I spent the latter part of August at the home of my aunt Elizabeth Cochran, wife of Stephen W. Cole, about 2 miles northeast of Oberlin. My uncle seemed to have a good deal of business with a colored blacksmith, named Augustus Chambers, whose smithy was about a quarter of a mile east of Mr. Cole's house. He took me along on three occasions, once when he had a horse to be shod, once when he had a wagon-tire to be reset, and once when he seemed to have nothing in particular to do,

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Sept. 3 and 17, 1858; *Norwalk Reflector*, Sept. 21, 1858; *The Oberlin Evangelist*, Sept. 29, 1858, said: "Our community has been excited at various times during a few weeks past by attempts to capture fugitives in this place. These efforts have been made, as we understand, by men from Kentucky. \* \* \* It is not necessary to say that these efforts have stirred up intense feeling on the part of our citizens. \* \* \* In these undertakings there was no approach to success until stratagem and treachery were resorted to."

but talked to Chambers in a low tone of voice. Chambers became highly excited. He brought his hammer down on his anvil with a mighty crash, then threw it in the corner. He paced about his smithy, gesticulating violently and talking in a loud voice, which was still musical and pleasing, and his eyes flashed fire. "So they tried to steal that mammy and her children right under your noses! So they rang the firebells and got out the fire company and the hooks and ladders to stop it, did they? Well! how long are you going to let these man-stealers lie around Oberlin? I don't call them *slave-catchers*; there are mighty few *slaves* around here. I call them *man-stealers*—devilish thieves!"

My uncle tried to quiet him and suggested that he should go into hiding for a few days. There was a swamp and dense forest in those days (since drained and cleared) which stretched from a point not far from Chambers' smithy nearly to Elyria and, while I did not understand it clearly at the time, I became convinced, later, that many negroes were in hiding in that swamp and that Chambers was in close communication with them, and that, through Chambers, my uncle was extending aid to the poor refugees. "No, Sir!" thundered Chambers, "*I stay right here*. And if any one of those men darkens my door, he is a dead man." He then showed my uncle how impossible it was for him to be taken unawares, how he had a hammer here and a bar of iron there, and a sharpened poker lying in the forge red hot most of the time. He took us into a lean-to in the rear and showed us a double-barrel shot gun "loaded with buck" over the door, and knives and a pistol hung on the siding near his bed. "But, Chambers!" said my uncle, "you wouldn't kill a man, would you?" "Kill a *man*? No. But kill a *man-stealer*? Yes! Quicker'n a dog. As God is my judge, the man who tries to take my life will lose his *own*." My uncle looked at me and then said to Chambers, "Sh-h-h,

little pitchers have big ears." Chambers said, "I don't care how big his ears are, or his mouth. I don't care who hears, or how many he tells. Chambers will never be taken alive." "But," my uncle said, "we all know you are a freeman and have your *papers*, so that any court or judge will clear you—even if they do take you."

"I will never trust them. A man with a drop of colored blood in his veins has no show. Any white man who wants to make a few hundred dollars can swear away my rights. They will not let *me* say a word. My papers are all right, but how can I hold on to them or prove they are 'jenuine.' These men-stealers are just lying around Oberlin until they can spot a likely negro, get his description down pat—size, marks and all—then get some fellow down South to claim him and give them his affidavit and then they will sail in and take him. An average negro in good condition is worth \$1,000. On account of my blacksmithing, I s'pose I would be worth \$2,000 on a big plantation, and if this thing goes on much longer they will try to get me."

His voice was tremulous with emotion and a sense of wrong.

"But we will testify for you," my uncle said. "Think they are going to have me tried here?" Chambers said. "They will take me way off somewheres where you-uns can't come and more'n likely they won't try me at all. They'll slip me over the Ohio river if they can and say nothing to nobody. If they do try to prove up it will be in the back office of some Commissioner appointed by a Democratic judge, with no one present, but the men who get me, who say their say, and I am not allowed to say anything. For fear, even then, that a C'missioner might let me off, the law says to him—send him down South and you get \$10—set him free and you only get \$5. And that isn't all. When you pick up a negro worth \$1,000 or \$2,000, there is *money* to

*divide among all concerned. There is nothing coming to anybody if you set him free."*

I think his words would have made a lasting impression on my mind anyway; but the capture of John Price, a fortnight later, by the very men he was talking about, the subsequent indictment and trial of Price's rescuers, and the excited talk I heard in Warren, Ohio, to which I returned soon after the first of September, 1858, made them indelible. And I never heard any one state the objections to the Fugitive Slave Law more clearly and more eloquently than this colored man, who "had no rights that a white man was bound to respect."

It was a significant thing that when Jennings came to Northern Ohio, looking for slaves of his own and, incidentally, for slaves belonging to others, he should go right to Dayton, at Oberlin, and keep in touch with him until he had accomplished the object of his visit. The following account is condensed from the sworn testimony of witnesses given at two trials in the United States District Court at Cleveland, during the months of April and May, 1859, as reported daily in the *Cleveland Leader* and *Cleveland Herald*.

Jennings arrived in Oberlin late in August, 1858, and went to Wack's hotel, which he made the base for operations. Dayton and a man named Warren met him at the hotel. He himself kept out of sight most of the time while they scouted around and made inquiries for him. It was on clues furnished by them that he visited the places above mentioned, ostensibly looking for a run-away slave of his own. He did not find him, but he wrote to John G. Bacon of Maysville, Ky., that he had "discovered a nigger near Oberlin answering to the description of his run-away slave, John, and that if he would send him a power of attorney he would get him. He then went to Sandusky and from there went to his home near Maysville to urge Bacon to



give him the power of attorney. This follow-up move seems to have been inspired by the knowledge, gained before he wrote, that a man named McMillen already had a power from Bacon to take John. He must have learned this from Dayton, with whom McMillen had been working before Jennings came.<sup>100</sup> Bacon told Jennings that he had executed a power of attorney and given it to Richard P. Mitchell.<sup>101</sup> to take to him at Oberlin, and that he must have passed Mitchell, on the Ohio river. The power of attorney was not Bacon's only, and did not apply to "John" alone. Richard Loyd joined in it and it described his negro "Frank." It was dated September 4, 1858. Jennings hurried back to Oberlin and met Mitchell who had been waiting there for him two days. Mitchell gave him the power of attorney and said he had seen "John" and he was the boy wanted. Jennings said, to make things doubly sure, he would get a warrant from a United States Commissioner and a United States Deputy Marshal to execute it. Oberlin is in the Northern District of Ohio and less than 35 miles from Cleveland, where there was a United States Judge, a United States Marshal, and a United States Commissioner. Cleveland was the natural and proper place to apply for a warrant and the Cleveland Marshal, or one of his deputies, was the proper person to make the arrest. A Cleveland judge, or U. S. Commissioner, was the proper person to hear and decide whether John Price was Bacon's slave, and whether he was a "fugitive from labor" within the meaning of the Fugitive Slave Law. The warrant could have been

<sup>100</sup> When quizzed about this apparent breach of confidence, on the second of the trials above mentioned, Jennings made a characteristic explanation. "McMillen had a power of attorney to take John when I wrote for one. Don't know whether Bacon knew he had one or not. S'pose McMillen went and got it for his own use, *without Bacon's knowledge*!" This interesting letter was conveniently missing at the trial.

<sup>101</sup> Richard P. Mitchell may well be termed a professional slave-catcher. He figured in the Sandusky case of *Driskill v Parrish*, supra, pp. 110 to 112. He had twice before visited Ohio in search for the Maysville runaways.

procured and the arrest made within a day. John's friends and neighbors could have attended the hearing without great inconvenience and satisfied themselves that he had a fair trial. Jennings knew all this and had been in constant communication with Dayton, to whom the warrant would naturally have been delivered for execution. But Jennings did not go to Cleveland. He went to Columbus, which is in the Southern District of Ohio, and hunted up Jacob K. Lowe, a U. S. Deputy Marshal for the Southern District of Ohio, and the two went before Sterne Chittenden, a U. S. Commissioner for the Southern District of Ohio, who issued a warrant to any deputy-Marshall of that District for the arrest of—not John Price of Oberlin but—"John, a fugitive and person escaped from service by him owed to John G. Bacon" and commanding him to forthwith "have his body before some United States Commissioner, *within and for the Southern District of Ohio.*"

The warrant was handed to Lowe, and Jennings returned to Oberlin with Lowe and Davis, the latter a jailer and deputy sheriff of Franklin county—arriving there late Friday night, September 10, 1858. Jennings, Mitchell, Lowe and Davis had a conference with Dayton and Warren at Wack's hotel. Both Dayton and Warren said that it would be dangerous to attempt to arrest John Price in Oberlin; that some scheme must be contrived for getting him out of town so that he could be seized and carried off without raising a disturbance. To Jennings' question, "if he knowed of any one a man could put confidence in," old Mr. Warren told him he could trust Lewis D. Boynton, who lived about two and a half miles north of Oberlin. Jennings and Lowe went to Boynton's house Saturday night and stayed there until late Sunday night. They fared better than they would have fared at the hotel, and before coming away, arranged with Boynton's

son, Shakespeare, to drive into town and get John Price to go out with him to dig potatoes, and, if he consented, to let them know so that they could follow and arrest him. John was not anxious to work, himself, but offered to go with Shakespeare and hunt up "a nigger down at New Oberlin that he thought would go and dig potatoes." This was reported and Shakespeare took John in his carriage and drove slowly eastward until about two miles from Oberlin, when Lowe, Mitchell and Davis in a two-seated carriage overtook them and transferred John to their own carriage and started for Wellington by a diagonal road from Elyria which passed to the east of Oberlin and struck the road from that place to Wellington about two miles south of Oberlin. The seizure was effected without any outcry or disturbance. Shakespeare returned to Wack's tavern—not the "Mermaid"—reported the capture to Anderson Jennings, the leader in the enterprise, and received \$20 for his morning's work—not too much, considering that Jennings was to receive \$500 for delivering the negro to the claimant in Maysville, Kentucky.

Jennings then started for Wellington to join the captors. Two young men, driving from Pittsfield to Oberlin, met the three men with the negro, John, and, later, Jennings. They knew at once what it meant, and, hurrying to Oberlin, spread the news that the "Southerners" had caught John Price and were carrying him off to Wellington—nine miles away—with the evident intention of taking the train South which went through about 5 o'clock. There was great excitement and in a short time numbers of students and towns-people started for Wellington in buggies, spring wagons, hay wagons and any old rig they could get. Some of these were borrowed for the occasion, without the formality of consulting the owners. The speed limit, as fixed by custom, was exceeded by almost every

outfit. One man said he made the distance in three quarters of an hour, another testified that his party made it in 40 minutes. Simeon Bushnell, who started late, because he wanted "a good rig and a man with a gun," passed nearly everybody on the road. As no tickets were sold, it is impossible to tell how many went down to Wellington on this excursion, but there were some 50 or 60 in all. They had no organization and no leader. Many went from mere curiosity and Mr. Wack went to get Jennings to give him a good ten dollar bill for one which Jennings had paid him, and which the bank said was counterfeit. There were perhaps 20 guns in the crowd, very few of which were loaded. The first thought of those who were in earnest was, they must prevent the kidnappers—for that is what all believed the Southerners to be—from taking the afternoon train South, and so they surrounded the Wadsworth House,<sup>200</sup> the hotel to which the captors had taken John, and blocked the doors and every avenue of escape. It was doubtful even then if they could have effected their purpose, except for a fortuitous circumstance which added greatly to their apparent numbers. A building in Wellington near the hotel took fire that morning and rumor spread by telegraph and otherwise that the town was burning up. People came in from Grafton, La Grange, Rochester and New London, on the railroad, and from the surrounding country in buggies to see the fire, and when the fire was out, joined the crowd around the hotel, hoping to see something exciting.<sup>201</sup> The crowd, thus reinforced, varied from 150 to 300 in number. Knowing nothing of the composition and motives of this crowd, the captors thought they

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<sup>200</sup> This hotel was a frame building of two stories and an attic, facing the public square on the site now occupied by the Library which ex-Governor Herrick presented to his native town. It had a two-story porch in front.

<sup>201</sup> *Cleveland Leader*, Sept. 13, 1858; *Independent Democrat*, Elyria, Sept. 15, 1858; *Lorain County Eagle*, Sept. 15, 1858.

were all after John Price, and were thoroughly overawed. They backed up stairs to the second story and when a ladder was put up outside and people began climbing to the second story porch, they backed up to the attic, and retired to a room which had a small fan-shaped window and one door with a rope fastening. Jennings was a Kentucky giant, about 6 feet 4 inches high, and with proportions to correspond. Mitchell was another big Kentuckian. Lowe and Davis were used to handling prisoners, and all were armed with revolvers—the Kentuckians carrying two apiece and knives in addition.

Before retiring to the last ditch, *i. e.*, the attic of the Wadsworth House, John's captors parleyed with the crowd, invited them to appoint a committee to inspect the papers and report on the regularity of their action. The "papers" were in fact exhibited to several persons, among them the Democratic Postmaster of Rochester, who had come up to see the fire, a Democratic lawyer, of Wellington, a Justice of the Peace at Wellington, and two or three students. The paper relied on was the warrant issued by U. S. Commissioner Chittenden and this was the only paper exhibited to most of the witnesses. The Justice said it was defective because it had no seal and because it was not issued by an officer of "*the proper district*;" but disclaimed any jurisdiction in the case and said they would have to go to Elyria—18 miles away, and sue out a writ of *habeas corpus*. Jennings offered to let a committee accompany him to Columbus and said if he failed to make out a case they might bring the negro back with them. The crowd hooted at this and said "Columbus was a little too far South." The fact that the warrant was issued by an official in the Southern District of Ohio and was being executed by officials from that district who intended to take John there before any inquiry was made, was a suspicious circumstance which confirmed the impression that it was a case

of kidnapping. If there had been any provision for a trial by a jury in Lorain County, or by a U. S. official in Cleveland, and they were taking John there, there would have been no attempt at rescue.

The train came in and went on, minus its intended passengers; it began to grow dark, and at last the cry went up, "We must get him out of there." "Get him out!"

Richard Winsor, a little Englishman, of rather dark complexion, had gone up with a citizens' committee to examine the "papers" and decided to stay when the rest retired. Jennings was busy keeping the door closed against the crowd outside, and the others, noting the insignificant appearance of Winsor, paid little attention to what he was doing. He took John off to one side, tried to put heart into him and instructed him just what to do when the door was opened. Then he wrote instructions on a slip of paper and passed them through a pipe hole in the wall to students whom he heard in the adjoining room.

His instructions were to ask for another conference, get the door open in some way, and then all crowd in and, in the confusion, he and John would edge around and get out. This communication having been delivered, some one from the adjoining room managed to punch Jennings' head through the pipe hole and, as he let go the rope fastening, they forced the door open and entered the room, and as they crowded in, Winsor worked his way out, the colored boy stooping down behind him and clasping him tightly around the waist. He was hurried down stairs and thrown into the spring wagon, in which Simeon Bushnell was waiting, and driven to Oberlin. Not a shot was fired, nor a blow struck, except the slight punch to Jennings' head. \* \* \*

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\* \* \* Winsor himself gives an account of the rescue in *Oberlin Jubilee* 1883, pp. 251 to 255.

The thing was managed so cleverly that not one of the captors was able to tell just how John disappeared from the attic, and no one in the crowd identified Winsor. Several persons testified that Bushnell drove off with John and *another negro*.

The facts about this part of the rescue and the further fact that John was stored for 24 hours in the attic of Professor James H. Fairchild's<sup>203</sup> house were not known to more than three or four persons until 25 years later. Professor Fairchild's attic was chosen, much against his will, because he was about the last man in town who would be suspected of violating any law, no matter how bad the law might be. The next day, after dark, John was taken to the black swamp, made his way from there to a Lake port, crossed to Canada, and Oberlin saw him no more.

While this rescue created great excitement in Oberlin and Wellington, it would have attracted little attention outside of those places except for what followed. The *Cleveland Herald*, Sept. 14, 1858, had a brief paragraph concerning it.<sup>204</sup> The *Cleveland Leader*, Sept. 13, 1858, mentioned the fire, which burned out part of the business street of Wellington on the morning of the rescue, but said not a word about the rescue itself until eight days later.<sup>205</sup> The *Independent Democrat*, and *Lorain County Eagle* (Dem.) of Elyria, September 15, 1858, gave brief accounts of it, the latter concluding with the following:—"We have heard of many foolish things being attempted in this world, but to think of carrying off a fugitive from Lorain County seems to us to cap the climax in the line of folly," The *Painesville Telegraph*, Sept. 16, 1858, published a

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<sup>203</sup> James H. Fairchild was at this time Professor of Theology and Moral Philosophy. He was elected President of the college in 1866.

<sup>204</sup> This paragraph, still further condensed, appeared in the *Ashtabula Telegraph*, Sept. 18, 1858; and *Norwalk Reflector*, Sept. 21, 1858.

<sup>205</sup> *Cleveland Leader*, Sept. 21, 1858; *Western Reserve Chronicle*, Sept. 22, 1858.

brief item furnished by Ralph Plumb. The *Jeffersonian Democrat*, Chardon, Sept. 17, 1858, contained a rather detailed account of it written by an Oberlin student from Geauga County. Other Western Reserve papers do not appear to have heard of it, until the United States District Attorney at Cleveland brought it into prominence by proceedings to indict the participants.<sup>206</sup>

The Cleveland papers, of November 9, 10 and 11, mentioned the empanneling of a Grand Jury and Judge Hiram V. Willson's charge to the Grand Jury<sup>207</sup>. The Western Reserve papers generally noted this move on the part of the United States authorities.<sup>208</sup> If the proposed indictments had been confined to those who took an active part in the rescue, such as Bushnell, Winsor, and the few men with guns who surrounded the hotel in Wellington, there would have been little public comment, but the Plain Dealer's announcement that "some forty citizens of Oberlin and Wellington will be indicted" indicated a purpose to do something more than punish active offenders against the law. Judge Willson was not content to declare the law, in his charge to the Grand Jury, and explain what would and what would not, constitute a violation of its provisions, but lowered the dignity of the Court and betrayed the animus of the whole proceeding by an

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<sup>206</sup> The *Cleveland Plaindealer* said, Sept. 24, 1858: "We understand that those citizens of Oberlin and Wellington who assisted in rescuing a fugitive slave from the U. S. officers a short time since, are to be immediately prosecuted. See also *Lorain County Eagle*, Oct. 13, 1858.

<sup>207</sup> The *Cleveland Plain Dealer* said, Nov. 9, 1858: "The witnesses subpoenaed are all in this city, some twelve in number, and will shortly be examined by the Grand Jury of the United States Court, now in session. Oberlin is in a foam. It is thought some forty citizens of Oberlin and Wellington will be indicted for aiding fugitive slaves," which shows that the District Attorney had taken the *Plain Dealer* into his confidence. The *Cleveland Herald*, said, Nov. 10, 1858: "In the course of his charge he alluded to the recent rescue case at Wellington, impressing the necessity of sustaining the provisions of the Fugitive Slave Law."

<sup>208</sup> See *Independent Democrat*, Elyria, Nov. 17, Dec. 8, and Dec. 15, 1858; *Ashtabula Sentinel*, Dec. 16; *Guernsey Times*, Dec. 23, 1858; *Jeffersonian Democrat*, Chardon, Dec. 10, 1858; *Norwalk Reflector*, Dec. 14, 1858; *Oberlin Evangelist*, Dec. 22, 1858; *Painesville Telegraph*, Nov. 11, 1858; *Portage County Democrat*, Dec. 15 and 29, 1858.



intemperate assault upon the character and motives of conscientious objectors to that law, although he had to admit later in the charge that "The Fugitive Slave Law may, and unquestionably does, contain provisions repugnant to the moral sense of many good and conscientious people." He said:—

"There are some who oppose the execution of this law from a *declared* sense of conscientious duty. There is, in fact, a sentiment prevalent in the community which arrogates to human conduct a standard of right above, and independent of, human laws; and it makes the CONSCIENCE of each individual in society the TEST of his own ACCOUNTABILITY to the laws of the land.

"While those who cherish this dogma claim and enjoy the protection of the law for their own lives and property, they are unwilling that the law should be operative for the protection of the constitutional rights of others. It is a sentiment semi-religious in its development, and is almost invariably characterized by intolerance and bigotry. The LEADERS of those who acknowledge its obligations and advocate its sanctity are like the subtle prelates of the dark ages. They are versed in all they consider useful and sanctified learning—trained in certain schools in New England to manage words, they are equally successful in the social circle to manage hearts; seldom superstitious themselves, yet skilled in practising upon the superstition and credulity of others—FALSE, as it is natural a man should be whose dogmas impose upon all, who are not saints according to HIS CREED, the necessity of being hypocrites."

The presumption of impartiality in the proceedings of the Grand Jury was negatived by the fact that one of the number was Lewis D. Boynton, the "reliable citizen" at whose house the plot for capturing John Price was arranged and whose son, Shakespeare, was one of the principal witnesses for the prosecution. It was also announced that he had been appointed Postmaster at Oberlin to succeed a Douglas Democrat, Munson.<sup>200</sup> Otis Reed, another of the number, was Democratic Postmaster at Roots-

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<sup>200</sup> *Cleveland Leader*, Oct. 29, 1858; *Independent Democrat*, Elyria, Oct. 7, 1858; *Lorain County Eagle*, Oct. 27, 1858.

ville, O.<sup>210</sup> Although the Western Reserve was overwhelmingly Republican in sentiment, none but Democrats were drawn for this service. An Administration measure was to be carried through, under the forms of law, by Administration appointees and supporters. It was, to say the least, a singular coincidence, that, out of the thousands of voters in Lorain County, Ohio, the U. S. Marshal should have selected the only man who had anything to do with the capture of John Price, and been paid for the same through his minor son.

Thirty-seven men were indicted for violation of the Fugitive Slave Law—21 from Oberlin and 16 from Wellington. Among the Oberlin men were Henry E. Peck, Professor of Mental and Moral Philosophy, Ralph Plumb, the town lawyer and banker, and James M. Fitch, the college bookseller and superintendent of the largest Sunday School in Northern Ohio. Not one of them had been to Wellington, or incited any one else to go, or had anything to do with the rescue. They were, however, outspoken anti-slavery men, and they were indicted, mainly, with a view to fixing a stigma on the town and college and to suppressing liberty of speech there and elsewhere.

On the 7th of December the U. S. Marshal appeared in Oberlin with warrants for the arrest of 21 of the persons indicted, and went first to the house of Professor Peck, who received him civilly and went with him to help him find and serve the others. Fifteen were served that day and all agreed to go up to Cleveland the next morning, and appear in Court. It was a very polite affair all around—quite unusual in criminal procedure. The Oberlin people appeared next morning as agreed, pleaded “not guilty” and announced that they were ready for trial. The District Attorney stated that he was

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<sup>210</sup> *Portage County Democrat*, Dec. 29, 1858.

not prepared, although he had had all his witnesses before the Grand Jury and had drawn up the indictments. After some debate and a refusal on the part of the now "prisoners" to furnish bail or even to go bail for each other, they were released on their own recognizances to appear when their cases were called for trial, and returned to their homes and usual occupations.<sup>211</sup>

Five others, when they learned that they had been indicted, voluntarily appeared, pleaded not guilty and were released on the same terms. William E. Lincoln was teaching school at Dublin, twelve miles from Columbus, when the indictments were found. He was arrested there, January 14, 1859,

<sup>211</sup> The *Cleveland Herald* said, Dec. 9, 1858: "This announcement" [that the Rescuers were ready for trial] "staggered the Federal Attorney, Judge Belden, who did not dream but that these men *like other criminals* would ask postponement. He was then put on the defense and asked for delay. What other proof need the public have that this prosecution is merely for effect at Federal headquarters, than the fact that the District Attorney, who has had the whole matter under his control, who knows all the secrets of the Grand Jury room, who can lay his finger upon every witness for the prosecution, and who can hold such witnesses by the whole Federal force, asks a postponement of the trial. The *Cleveland Leader* said, Dec. 10, 1858: "The circumstances attending the rescue of kidnapped John at Wellington have been published. Democrats were present and active in a cause which roused the nobler feelings of man and made all eager to redress an outrage which all decent slaveholders reprehend. *Not one of these has been indicted.*" The *Western Reserve Chronicle* said, Dec. 15, 1858, "We learn from the Cleveland papers of Friday that the indicted citizens of Oberlin appeared in Court on Thursday and demanded an immediate trial. The U. S. Attorney faltered, stammered, looked confused, but finally said he was not ready for trial. \* \* \* It is not too much to say that they will never be tried." And this proved to be true as to all but two. The *Cleveland Plain Dealer* had a very flippant article, Dec. 7, 1858, with staring headlines:

"THE SIEGE OF OBERLIN. THIRTY-SEVEN OBERLINITES  
INDICTED BY THE U. S. GRAND JURY. FOR  
RESCUING A FUGITIVE SLAVE. CARRYING  
THE WAR INTO AFRICA."

The animus of the prosecution was so clearly revealed by this article that it was reproduced—headlines and all—in the *Ashtabula Sentinel*, Dec. 16, 1858. Again the *Plain Dealer* said, Jan. 13, 1859, "The right to reclaim fugitives from labor is in the Constitution. \* \* \* A law has been passed whose main provisions are in accordance with that clause of the constitution. The details of the law we never liked" [Important admission!] "but with these Higher Law gentlemen it is the essence of the law, *that power which reclaims the fugitive*, which they resist \* \* \*

We are not prepared for a Theocracy just yet. These Priests and Professors of Oberlin are no doubt good Christians and sincere men, but they are very bad politicians. 'Much learning hath made them mad.' An unfortunate parallel! The Oberlin men were quite content to be likened to St. Paul and to have the *Plain Dealer* assume the role of Festus.

by deputy-Sheriff Davis of Franklin County, who had helped to kidnap John Price. Davis had with him an able-bodied constable and Lincoln was a thin, pale student, who made no resistance but merely asked time to change his clothes. Davis proceeded to put hand-cuffs on him in the presence of his frightened and crying pupils, drove him to Columbus and threw him into jail with criminals of the lowest type, kept him there over night, and took him next day to Cleveland, where he was released on the same terms as the others and, after going to Oberlin to borrow money enough to pay expenses, returned to his school. This exhibition of wanton brutality again stirred up public feeling, which had begun to subside after the release of the first prisoners on their own recognizances.<sup>112</sup> The people of Dublin, without distinction of party, held an indignation meeting before Lincoln's return and expressed their opinion of the brutal treatment he had received in the following series of resolutions, which were published in the *Ohio State Journal*, January —, 1859; and the *Cleveland Herald*, January 20, 1859:—

**"Resolved,** That in this outrage, prompted mainly by personal revenge, we see our own liberties attacked, and hereby express our unqualified disapprobation of this illegal, cowardly and insulting use of official authority.

**"Resolved,** That in the spirit expressed by our forefathers in their motto 'Resistance to tyrants is obedience to God,'

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<sup>112</sup> *Cleveland Leader*, Jan. 18 and 20, 1859; *Cleveland Herald*, Jan. 19, 20, 21 and April 13, 1859; *Independent Democrat*, Elyria, Jan. 19, 1859; *Ashtabula Sentinel*, Jan. 20, 1859; *Portage County Democrat*, Jan. 26, 1859; *Ashtabula Telegraph*, Jan. 22, 1859. The *Ohio Statesman*, Columbus, Jan. —, 1859, published a card from Davis and attempted to justify his action. It said, "The officer was perfectly right in putting hand-cuffs on Lincoln \* \* \* The truth is, that the sight of such officers as him handcuffing their prisoners and walking them off through pale crowds of abolitionist sympathizers will very soon bring the Oberlin people, negroes and all, to a wholesome fear of the law." Another manifestation of "defective psychology!" The "moral effect" of such an exhibition was simply to make the blood of every humane man boil. The *Cleveland Plain Dealer* said, Jan. 18, 1859, "All there was wrong about it, the deputy overacting his part, as Zealots in law as well as in religion always will do, put the arrested in irons to bring him here. This was entirely wrong, but the Deputy alone was to blame for it, and he would not be considered to blame anywhere South of the National Road."

we do heartily sympathize with said Lincoln and his fellow accused, and consider the charge laid against them an honor rather than a disgrace to all true Americans.

"*Resolved*, That we also express our disapprobation of that law which compels us against the dictates of conscience and humanity, to assist in sending back a fellow citizen to slavery.

"*Resolved*, That we hereby pledge ourselves, hereafter to oppose any such illegal use of official authority in our community by either kidnappers, deputy marshals, or deputy marshals' deputies."

A Dublin correspondent of the *Herald* wrote, "We feel more deeply grieved in regard to the affair, because Davis, before he became turnkey of the county jail, was a citizen here."

Prominent lawyers in Cleveland and Elyria volunteered to defend the Rescuers, (as we shall call them hereafter), free of charge, and the services of Albert G. Riddle, Rufus P. Spalding, S. O. Griswold, and F. T. Backus, of Cleveland, and Stevenson Burke, then practising law in Elyria, were accepted. The cases were continued, in January, to March, and again, in March, to April 5. At each continuance, the Plain Dealer fulminated against the "Higher Law Apostles;" the Democratic county papers gave back faint echoes; and the impression was confirmed that the cases were kept alive only for political effect and never would be tried.

But at last the stage was prepared; the witnesses were summoned; the government elected to try Simeon Bushnell first, and on April 5th the trial began. Public interest in the case had been steadily growing. The Court room was packed with a very intelligent and attentive body of spectators. Reporters were in attendance for the four Cleveland papers and for the *New York Tribune*, *Worcester (Mass.) Spy*, *Pittsburgh Commercial Journal* and *Bailey's Free South*, "the only free paper in Kentucky."<sup>111</sup>

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<sup>111</sup> *The Cleveland Plain Dealer*, April 4, 6 and 7, 1859; *Cleveland Leader*, April 6, 1859; *Cleveland Herald*, April 5, 1859.

All the leading papers of the Western Reserve had correspondents in attendance and the editors of such papers as *The Ashtabula Sentinel*, *Painesville Telegraph*, *Portage County Democrat*, *Independent Democrat*, of Elyria, and *Western Reserve Chronicle* were frequent visitors and recorded their impressions of Court and counsel, of the prisoners, and of witnesses and their testimony.<sup>214</sup> The *Cleveland Plain Dealer*, on April 4, in the usual flippant style of "Artemus Ward" (Charles F. Brown) the associate editor, announced the setting of the case for April 5, under the flaring headlines "THE OBERLIN RESCUE CASE. FREEDOM SHRIEKS," etc., etc. The daily reports of the testimony taken, arguments of counsel, etc., filled columns of the Cleveland dailies, the editors commented thereon in leading editorials, a column or more in length, and the local reporter contributed his little squibs describing the appearance of the witnesses, humorous incidents, etc. No case had ever before attracted such universal attention on the Western Reserve, or was watched with such a critical spirit.<sup>215</sup>

A struck jury had been demanded and the Clerk

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<sup>214</sup> See *Ashtabula Sentinel*, April 14, 1859; *Western Reserve Chronicle*, April 20, 1859; *Painesville Telegraph*, April 21, 1859; *Independent Democrat*, Elyria, April 13, 1859.

<sup>215</sup> The *Cleveland Plain Dealer* said, April 4, 1859, after giving the names of the indicted, "Some of the above are negroes and some are not. Those that are not are apparently sorry that they ain't. \* \* \* We look for lively times during this important trial. It is understood that the friends and admirers of the Rescuers will be here in large numbers from all over the 'Preserve.' \* \* \* The matter is creating a tremendous sensation all over the country. Exciting times are upon us." And, on April 6, 1859, "The United States Court room was densely packed yesterday and this forenoon with spectators, some of whom have come hundred of miles to hear the trial." And on April 7, 1859, "The United States Court Room continues to be crowded with spectators, many of whom are ladies and the Slave Rescue case grows daily more and more interesting." The announcements in the other papers were less facetious. The *Cleveland Leader* said, April 6, 1859, "The trial is exciting great interest. The Court Room was crowded during the day, yesterday, with citizens and strangers. Reporters are here from the East and a detailed report is being taken for the *Law Monthly*. The indicted gentlemen came into Court yesterday morning and a more respectable body of prisoners have never appeared at a bar." The *Cleveland Herald* said, April 5, 1859, "We think no criminal court ever had a more respectable class of prisoners in the criminal docks."

got up a list of 40 names from which each side struck out 12, leaving 16 persons from which to select the 12 who were to try the case. In a district where Republicans were largely in the majority, only ten of the forty selected by the Clerk were Republicans and those were struck off by the District Attorney. Even the Democrats, left after striking, were subjected to inquiry as to whether or not they approved the Fugitive Slave Law. The result, as intended, was an ultra partisan jury prejudiced, to a man, against any person entertaining anti-slavery views. The only man from the Western Reserve on the jury, as made up, was Daniel P. Rhodes, of Cleveland, father of J. F. Rhodes, the historian. It was discovered by counsel for the defendants, on the sixth day of the trial that one of the jurors, Charles N. Allen, of Cadiz, O., was an officer of the Court—a deputy Marshal! The fact was announced in open court, but, as no motion was made to discharge the jury, the Court made no order in the matter. Partisan feeling was more intense in the fifties, than it is at present, and came little short of personal enmity against those of the opposite party. This fact was much commented on, during and after the trial, and the verdict was discounted in advance and carried no more weight than a political manifesto. As there was real ground for complaint of the “hand-picked” juries empaneled in United States Courts, and as there is always danger that such juries will be made up of strongly biased partisans, although there is marked improvement in present procedure, it may be well to note the protests made at this time.<sup>216</sup>

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<sup>216</sup> The *Oberlin Evangelist* said, March 16, 1859, “The jury which is to try the first case is already struck and is geographically, and so far as we can learn, politically a singularity. Gathered from the Northern half of Ohio, it exhibits out of the sixteen names on the panel, *only one from the Reserve*. Taken from a district, the population of which numbers tens of thousands of anti-slavery men, and which is, by an overwhelming majority, Republican in politics, it has, so far as we have ascertained, *neither an Abolitionist nor a Republican on the list*. We will not

Most of the facts narrated were proved on the trial which occupied ten days and was hard-fought from start to finish. The Judge and District Attorney knew that the administration at Washington expected them to do their duty and that a failure to convict and sentence would probably be visited with displeasure. There were many clashes between opposing counsel and some ill temper was shown, the judge himself occasionally seeming ruffled. The tension was relieved, now and then, by a humorous incident, which was laughed at, all the more heartily, because of the previous strain.

When the Kentucky giant, Jennings, took the stand he testified that he meant to take the nigger before Commissioner Chittenden at Columbus. He added, "Didn't take him there, however. There

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yet say that justice is to be mocked in the trial. We will say, however, that the present appearance is that such will be the fact." The *Western Reserve Chronicle* said, April 20, 1859, "The organization of the Federal Courts has often been the subject of comment; but never has such bitterness been felt on this subject as now, when it is seen that for the trial of political offences, juries are systematically packed so as to exclude any but partizans of the administration from the jury box. \* \* \* all such attempts to enforce a hated and unconstitutional law among the people of Ohio \* \* \* will rebound upon the head of the party which makes them and upon the accursed pro-slavery cause, which is at the bottom of them all." The *Portage County Democrat* said, April 20, 1859, "The Cleveland papers bring to light the fact that a 'struck jury' was summoned to try the Rescue cases. The Marshal selected forty names. The small-minded, infamous and vindictive District Attorney struck off every Republican and thus the jury was composed of twelve Democrats." The *Independent Democrat*, Elyria, said April 20, 1859, under the heading "A BURLESQUE OF JUSTICE," "The offence assumes a political character, inasmuch as the infamous law which they are accused of violating is despised by one party and cherished by another. To try these men a Grand Jury was empanelled, every man of whom was a Judas Taney Democrat and one of them was the father of the boy who was hired to decoy the negro into the hands of his kidnappers. Such men would have no difficulty in finding an indictment, let the facts be what they might. With the hope of securing a fair traverse jury to try the case, the defendants asked for a struck jury. This was granted and the names of forty men were put on the list, every man of whom were Taney Democrats except twelve, and these were immediately struck from the list, leaving the defendant to choose his men from that array of office-holders and office expectants. The result was just what the Marshal and the Clerk desired—a jury who would feel delighted at the opportunity of punishing the violators of their favorite Fugitive Slave Law. The *Ohio State Journal* said, April, 1859, "Under a bill of indictment found by a packed grand jury, thirty-seven citizens of Ohio have been put upon their trial before another packed jury and one of their number, Simeon Bushnell, had been found guilty of a violation of the infamous Fugitive Slave Law."



was, as I thought, as much as a thousand people around and in the house \* \* \* should think there were 500 guns in the crowd."

The magnifying power of his fears provoked much laughter.

Bacon, the claimant, testified that he told Jennings if he brought his boy, John, back, he would give him one-half of what the nigger would sell for. Jennings, who had not heard his testimony, swore that he "niver made no bargain with Bacon about pay for ketchin the nigger," and that what he did was done "out of *pure neighborly regard*," which produced another laugh. Being recalled later, after he had had an opportunity to become posted, he admitted that Bacon told him he would pay \$500 to any one who would bring back his boy John.

When asked how he came to go to Boynton's the Sunday before the capture, he answered:

"Wal, we was told that it would be dangerous to undertake to arrest the nigger in that town; so I went to old Mr. Warren and asked if he knowed of any one in Oberlin a man *could put confidence in*" (great laughter) "and he told me I could trust Boynton."

When asked where he found and took possession of John, he said, at Wadsworth's hotel in Wellington. "Saw the people crowding in with guns *asking for the men that had John* and didn't stop to talk long."

Mitchell proved a very swift witness and taxed the credulity of the audience to the breaking point by saying that John *wanted* to go back to his master. "I ast him—Don't you want to see your Mammy?" and he said "yes, but he would much rather see his *old missus*." (Laughter.)

"He told me that he started to go back to Kentucky once; got as far as Columbus and the folks from Oberlin overtook him and brought him back!" (Great laughter.)

When asked to describe his movements after they reached the hotel at Wellington, he said:

"Took John up stairs while waiting for dinner. Took John down and had him eat dinner with us. That was the first time I ever eat with a *nigger*, though." (More laughter.)

Asked to describe Bacon's boy, John, he went off into quite a dissertation on the varieties of negroes, and wound up by saying to the District Attorney: "I have seen a great many niggers whiter than *you*. Call them light mulattoes," which turned the laugh on the District Attorney.

A witness for the prosecution, being asked if anything was said in the crowd about the "HIGHER LAW," answered:

"I don't know, unless that was what they meant to send to *Elyria* about," which produced a laugh, in which the District Judge heartily joined.

A witness for the defense kept calling the captors, "Southerners." "Why do you call them Southerners?" asked the District Attorney.

"Because Southerners are the men that *usually carry off* people."

One witness said he staid in the crowd until the final rush was made. "Then I expected there would be some shootin' going on, and I didn't want to die just then, so I left."

There could be no dispute about Bushnell's participation in the rescue of John Price, so the defense turned on a question of *fact*, whether John Price *was* Bacon's long lost slave, John, and questions of *law*, whether he was properly in the custody of his captors, and whether, if so, Bushnell, having no personal notice or knowledge that John was a fugitive from service, and believing, on the contrary, that he was not, was guilty of violating the law.

On the question of identity, Bacon described his boy, John, in the Power of Attorney which he gave Jennings, as "about 5 feet 6 or 8 inches high, heavy set, *copper colored* and will weigh about 140

or 150 pounds," and on the witness stand described him as "eighteen years old, about 5 feet 8 inches high, *copper color* and *heavy built*." He had not seen John Price and, of course, could not swear that John Price was his slave.

Jennings described Bacon's boy as "21 or 22 years old. Think he would weigh 165 or 170 lbs. Some would call John copper color. Copper color is between black and light mulatto."

Mitchell described Bacon's boy as "about 5 feet 8 or 10 inches high; weighs about 150 or 160 pounds. I should call him dark copper color."

While the witnesses do not agree very well in their descriptions, this much seemed to be certain, that Bacon's slave was at least 5 feet 8 inches high, *heavy set*, weighed at least 150 lbs. and was *copper colored*.

Five witnesses from Oberlin, who had known John Price well, described him as 5 ft. 4 or 5 inches high, weighing not over 125 or 130 lbs. and "*black*," "*very black*," "*decidedly black*."

On the question of identity the verdict should have been for the defense. Thousands of negroes in the northern states would have fitted the description of Bacon's slave John, better than John Price did, and one of *them* might have been taken just as well. Should honorable citizens be fined \$1,000 and imprisoned six months for objecting?

What probably turned the scale in favor of the prosecution was the admission of testimony by Jennings and Mitchell, against the objections of defendant's counsel, that John Price *told them* that he was Bacon's slave and that he wanted to go back. John Price, himself, would not have been allowed to testify under the Fugitive Slave Law, on the probable theory that no one could believe a negro under oath. But what any one else *says he said* when he was *not* under oath, is perfectly admissible. Such was the logic of a court bound to convict!

It was called, in argument, an "admission," but John Price was not on trial and Simeon Bushnell had made no admissions and the alleged "admission" of John was not made in his presence. It is to be hoped that the day will never come when an American citizen may be sent to the penitentiary on the admission of a third party that *he* ought to be there.

Admitting, for the sake of argument, that John Price was Bacon's slave, was he properly arrested, and did the defendant know or have reason to believe that he was? The only paper deputy Marshal Lowe had when he arrested John, and the only paper shown to the Oberlin men who asked to see his authority, was the warrant issued by Commissioner Chittenden at Columbus. It had no seal—Lowe said it did not need any—and it was not issued by a commissioner of the "proper district," and therefore had no validity. This was practically admitted by the prosecution, who rested their case on the power of attorney given by Bacon to Jennings. This power of attorney may have been shown to some of the Wellington men, but was not shown to the Oberlin men. Why? Manifestly because the description of the tall, heavy, copper-colored slave of Bacon did not fit the short, light-weight, very black negro, John Price, and any of the men who knew John Price would have detected the discrepancy at once. So the invalid warrant was flourished at Wellington, to avoid the question of identity, and the power of attorney was used in the trial to convict Bushnell, who had no knowledge of it at the time of the rescue. Jennings and Mitchell both swore that John Price was Bacon's slave, John; but their credibility was greatly shaken. Both were interested parties; both were indicted under the laws of Ohio for kidnapping John Price and might be tried soon; both made such incredible statements on the witness stand as to provoke the derisive laughter of the large audience; and Jennings was flatly contradicted by

Bacon in the matter of agreed compensation for his services in capturing and delivering Bacon's John.

While four attorneys appeared for the defense, but two were allowed to argue the case—A. G. Riddle and R. P. Spalding. They did not make the most of these points for the defense. In fact, Riddle began by stating the case "most strongly for the government," by way of introduction to a very rhetorical argument which amounted to nothing if that statement was correct. He said:—

"As they" [Jennings] and party "thus held him in his agony, the defendant and his associates approached; and, knowing John was a slave in Kentucky, and how and by whom he was there held, that he had escaped, and how and for what purpose he was then seized and held; and knowing all this, they put forth their strong hands, wrenching John from the grasp of his captors, consigned him to the boundless realm of freedom! This is what they did and all they did, and in so doing they obeyed the laws of God," etc.

Almost any jury, after such a statement, would come to the conclusion that the main question of fact had been settled adversely to defendant and that the rest was an argument on the law, addressed to the Court—or the public—but not to them. What did they care about legal quibbles? And how could facts be altered by Riddle's rhetorical finish:—

"I have sunk the lawyer—I have sunk the advocate, that I might stand before you in my unsullied manhood and appeal to you as men.

"I have forgotten party prejudices that I might remember and remind you of issues involving the common rights, franchises, and liberties of us all as citizens of a great free State.

"I have sunk the individual interest of the Defendant, that I might appeal to you to protect the interest of all living things, and vindicate the dignity and sovereignty of our glorious commonwealth."

Almost the only question of fact argued by Judge Spalding was that Jennings and Lowe relied upon the warrant as their authority for arresting John Price and their attempt to take him out of the

District to Columbus, and that this warrant was the only thing shown at Wellington. He began a lengthy argument on the Constitutionality of the Fugitive Slave Law as follows:—

“Although I am not so vain as to imagine that I can, in this Court, procure a reversal of those decisions which have been made in other Federal Courts of this Union, I hold it to be none the less my duty to argue with the same accuracy, fidelity and fullness the questions involved, as though a sound argument would certainly influence the Court in coming to a right decision. ‘Agitate! agitate! agitate!’ is my motto, and my duty always, until the occasion for agitation is removed.”

He argued that the law was unconstitutional, because:—

1. It provides pains and penalties for free citizens of Ohio, for acts concerning which they are not amenable to Congress.

2. It overrides the writ of *habeas corpus*, the right to which is guaranteed by the Constitution.

3. It violates the Northwestern Ordinance which limits the reclamation of slaves in Ohio to such as escape from the “original States.”

4. It denies to the person arrested as a fugitive from service the right of trial by jury.

He argued also that the law required that the fugitive should be taken before a Court, Judge or Commissioner of the Northern District of Ohio, and that the captors were not protected in an attempt to carry John to the Southern District of Ohio. In conclusion, he said:—

“I know full well \* \* \* what the decisions of the highest tribunal in the Nation have been with reference to it; and I know as well the deference which in all ordinary cases is due from tribunals of inferior jurisdiction to its rulings. But, sir, I hold that so glaringly unjust a decision as the affirmation of the constitutionality of this act *can bind no one*; and had I the distinguished honor to occupy the seat which is so eminently filled by your Honor \* \* \* I should feel bound to pronounce the Fugitive Slave law of 1850 *utterly unconstitutional, without force, and void*; though

in thus doing, I should risk an impeachment before the Senate of my country; and, Sir, should such an impeachment work my removal from office, I should proudly embrace it as a greater honor than has yet fallen to the lot of any Judicial officer of these United States!"

The District Attorney was justified in saying, as he rose to make the final argument: "Are we in a Court of Justice? Or are we in a political hustings?" Willson disposed of most of the arguments by saying, in his charge to the jury:—

"Much has been eloquently said by learned counsel that would be entitled to great weight and consideration if addressed to the Congress of the United States, or to an ecclesiastical tribunal, where matters of casuistry are discussed and determined."

The truth is that both Riddle and Spalding were ambitious for political honors, and, while both sympathized sincerely with the defendants when they offered their services, they valued the opportunity for self-advertisement, and worked it for all it was worth.<sup>216a</sup> Riddle was elected to Congress in the fall of 1860, and Spalding, who had been a "Free Democrat" until the organization of the Republican party, and a Judge of the Ohio Supreme Court, was elected to Congress in 1862, 1864 and 1866.

On the other hand, counsel for the Government were not free from political ambition and both Judge Bliss, who made the opening argument for the prosecution, and District Attorney Belden, who closed, wandered from the real issues in the case and indulged in coarse vituperation of the "Saints of Oberlin," Peck, Plumb and Fitch, who had been indicted but were not then on trial, and in sneering allusions to Christian precepts and practice. Judge Bliss argued that the fact that John was a fugitive was "*proved* by his being found in the common resort

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<sup>216a</sup> *The Cleveland Plain Dealer* said, April 14, 1859, "The three Oberlin Attorneys engaged in the Rescue cases are killing two birds with one stone each. They are defending the Rescuers and running for Congress at the same time."

of fugitive slaves, to-wit, in Oberlin." There was no testimony in the case on which to base such a statement. Belden said, "Here are the Saints of Oberlin, Peck, Plumb, Fitch, to which are to be added Saints Spalding and Riddle and *sub-Saint* Bushnell—all saints of the Higher Law. \* \* \* Don't talk of Higher Law as God's Law, it is Devil's law, and it would make a Hell upon earth." "Christ denounced idolatry, polygamy, but not a word against slavery." "Higher law people run into the predicament of free love and infidelity." "Do you teach the Bible at Oberlin, or do you point out the spires of the churches as Hell poles?"<sup>217</sup>

The dignity of the court was preserved in the charge to the jury; but the identity of John Price with Bacon's slave, John, was *assumed by the court*, instead of being submitted to the jury, and all the technical defenses were ruled out. As to the defense of want of knowledge as to whether John Price was a fugitive from labor, the Court charged the jury; "But that dark complexion, woolly head, and flat nose, with possession and claim of ownership, do afford *prima facie* evidence of the slavery and ownership charged."

The verdict was "Guilty."

Having secured this verdict in one case, the District Attorney thought all he had to do was to multiply it by 21 and convict the whole batch. He proposed to try the case of Charles Langston to the same jury. Counsel for the defendants objected that the jury had just formed and expressed an opinion and that no one of them was qualified to act as a juror in Langston's case. The court overruled the objection and said it was proper that this jury should try all the cases.

Thereupon counsel for the defense lost their

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<sup>217</sup> The *Cleveland Leader* said, April 16, 1859, "The language and spirit of the address were in the worst possible taste, and evoked the indignation of the audience, evinced, in an instance, by unmistakeable hisses."



tempers and said that they would not stultify themselves by attempting a defense before such a jury. They called the ruling "a villainous outrage," "a mockery of justice," "a monstrous proceeding," and used other language which savored of contempt of court.<sup>117\*</sup>

Then the District Attorney got mad and asked that all of the defendants be ordered into the custody of the Marshal, and it was so ordered. Then Judge Spalding requested that their recognizances be canceled and muttered something about a gratuitous insult to men who had been in constant attendance and scrupulously obedient to every order of the court.

It was a fierce squall while it lasted, but the Judge and District Attorney soon recovered their equipoise and, perceiving that the rulings and commitment were "bad politics"—say nothing of the law—now proposed that the prisoners should be released from the custody of the Marshal on renewing their personal recognizances. But the prisoners, having felt much aggrieved at the wanton insult and having also a keen instinct as to what was and what was not good politics, refused to execute new recognizances and left it to the Judge and District Attorney to back down and apologize, or send them to jail. The Judge, feeling that it was better that 20 innocent men should suffer than that one guilty judge should admit his mistake, let them go to jail, where they remained for 85 days, every one of which was fruitful in converting thoughtful Whigs and Democrats into good Republicans.

When the case of Charles Langston was called, on the following Monday, the judge *did* reverse

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<sup>117\*</sup> Counsel might, if they had known about it, have cited the case of the Regicides, who were implicated in the beheading of Charles I, King of England. A separate jury was impaneled for each one of the alleged conspirators who demanded it, as a matter of right. This was in 1660. *Howell's State Trials*, V. 1011, 1036, 1050, 1061, 1078, 1117, 1146, 1177, 1185 and 1196.

himself, to the extent of ordering a new jury to be empaneled, and the trial proceeded:

This time it took fifteen days to convict. A new point made by the District Attorney in this case was taken up and pressed to its logical but absurd conclusion by the attorneys for the defense, *i. e.*, when Jennings came into the state of Ohio armed with a power of attorney from Bacon, he acted as the representative of the United States, and interference with *him* was levying war against the United States(!) Thus easily, under the Fugitive Slave Law could a slave owner make a great nation out of a very common man!

Langston took no part in the actual rescue of John Price, but did insist, in talking with deputy Marshal Lowe, whom he knew personally, that the question of Bacon's, or as he then understood the claim, Jennings' ownership of John Price, should be settled by some court in the District in which he was found. The Court again assumed that John Price was Bacon's slave, John, and charged the jury, on the point raised by Langston, "But when a fugitive from labor is captured and held in any of the modes and under the authority designated by the Act of Congress of 1850, *any interference by the State authorities has no justification, nor can those be justified who invoke their interference, when they know the fugitive is thus held.*" The jury in this case stood 10 to 2 for conviction, on the first ballot, and in the course of an hour the two were convinced that the Judge's charge left them no ground to stand on and they joined in the verdict of "guilty."

Bushnell and Langston were sentenced on May 11th, the former to 60 days' imprisonment, and to pay a fine of \$600; the latter, owing to his impassioned plea on behalf of the poor and oppressed, which stirred the emotions of all present, drawing a fine of only \$100 and imprisonment for 20 days. Langston's plea was, in the estimation of all who heard it,

the most eloquent and effective speech made during the entire proceedings. It was published in full in most of the Western Reserve papers and special attention called to it by leading editorials.<sup>218</sup>

To fully appreciate such a speech one must have

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<sup>218</sup> The *Cleveland Leader* said, May 13, 1859, "Charles H. Langston yesterday proved himself worthy of his Anglo-Saxon, Native American, African and Revolutionary blood. He stood respectful but unawed in the presence of Federal Court despotism and, like Paul of old, spoke the 'words of truth and soberness.' It will live in history. The children of the Free will read it in their school books and will execrate the memory of the Court and the Jury who consigned such a man to fine and imprisonment for a crime so God like!" \* \* \* "The remarks of the defendant, Charles Langston, were noticeable for their force, clearness, earnestness, rhetoric, logic and truth. No speech has been made in the long course of these trials, that so appealed in itself to the hearts of the hearers as his. There was a power and solemnity to it which could not but be felt by all, whether friends or enemies to the colored race. He, at least, was a MAN." The *Cleveland Plain Dealer*, said, May 12, 1859, "On the opening of Court Mr. Langston appeared for sentence, and was asked if he had anything to say in mitigation of his sentence. To which Mr. Langston, who is a fine looking, light mulatto, responded both courteously and eloquently in manner and matter." The *Ohio State Journal* said, May 4, 1859, "Before the Judge passed sentence upon him, He made one of the most manly and eloquent speeches we ever read. \* \* \* We will publish this speech." The *Ashtabula Telegraph* said, May 14, 1859, "he addressed the Court for half an hour riveting the attention of the audience and called out marks of applause and admiration, and we should think, from the report of it in the *Herald* that it was characterized by more good sense, good temper, force and dignity, than anything that has proceeded either from the Bench or the Prosecuting Attorneys since the commencement of these trials." The *Independent Democrat*, Elyria, said, May 18, 1859, "He stood up before the Judge and Jury and, in the presence of as many people as could crowd into the room, delivered the speech which will be found in another column. It was a scorching, withering, and eloquent expose of the whole farcical trial and a complete annihilation of the sophistry and arbitrary power of the Court and District Attorney, to procure a conviction under an unjust and inhuman law. \* \* \* Let it be read by every person. The Judge was so affected by the truths he uttered that he could scarcely proceed to pass sentence upon him." The *Painesville Telegraph* said, May 19, 1859, "We publish it" [2 ¼ columns on the editorial page] "because it is so noble and manly a vindication of himself. It is an eloquent contrast, both in aim and language, with that conduct which others connected with these trials have evinced. It is worth handing down. Read it and then reflect that, by the decision of the United States Supreme Court, he is one of those who have 'no rights that white men are bound to respect.'" The *Ashtabula Sentinel* said, May 19, 1859, "These trials were brought to a temporary close on Thursday last by the sentence of Langston, whose speech and the proceedings of that morning we give in full. Let us here say to the reader, you will miss a treat, if you overlook that speech. It is a masterly effort. \* \* \* The spectacle of a man standing up in the face of tyranny, and telling the withering truths uttered in this speech is grand at any time; but when the effort is made under such circumstances as surround this case it is sublime. Judge Willson evidently quailed under it." See also *Cleveland Herald*, May 12, 1859; *Western Reserve Chronicle*, May 18, 1859; *Summit County Beacon*, May 18, 1859; *Jeffersonian Democrat*, Chardon, May 20, 1859; *Portage County Democrat*, May 25, 1859; *Oberlin Evangelist*, May 25, 1859; *Guernsey Times*, May 26, 1859; *Norwalk Reflector*, May 24, 1859.

seen the actor and heard the rich, musical voice, charged with deep feeling with which the words were uttered. A few extracts may be permitted here, as they portray, vividly, the pitiful condition of the colored man, bond or free, "under the law" in the fifties.

"I know that the courts of this country, that the laws of this country, that the governmental machinery of this country, are so constituted as to oppress and outrage colored men, men of my complexion."

"Some days prior to the 13th of September, 1858, happening to be in Oberlin on a visit, I found the country round about there, and the village itself, filled with alarming rumors as to the fact that slave-catchers, kidnappers, negro-stealers, were lying hidden and skulking about, waiting some opportunity to get their bloody hands on some helpless creature to drag him back—or for the first time—into helpless and life-long bondage. These reports becoming current all over that neighborhood, old men, and women and innocent children became exceedingly alarmed for their safety. It was not uncommon to hear mothers say that they dare not send their children to school, for fear they would be caught up and carried off by the way. Some of these people had become free by long and patient toil at night, after working the long, long day for cruel masters, and thus at length getting money enough to buy their liberty. Others had become free by means of the good-will of their masters." [This had been the case with the Langston brothers and Augustus Chambers] "And there were others who had become free—to their everlasting honor I say it—by the exercise of their own God-given power—by escaping from the plantations of their masters." \* \* \*

"These three classes were in Oberlin, trembling alike for their safety, because they well knew their fate should those men-hunters get their hands on them. In the midst of such excitement, the 13th day of September was ushered in—a day ever to be remembered in the history of that place, and I presume no less in the history of this Court—on which those men, by lying devices, decoyed into a place where they could get their hands on him—I will not say a slave for I do not know that—but a *man*, a brother, who had a right to his liberty under the laws of God, under the laws of Nature, and under the Declaration of American Independence."

"Being identified with that man by color, by race, by manhood, by sympathies, such as God has implanted in us all, I

felt it my duty to go and do what I could toward liberating him. \* \* \* I went to Wellington, and hearing from the parties themselves by what authority the boy was held in custody, I conceived from what little knowledge I had of law that they had no right to hold him."

"It is said that they had a warrant. Why then should they not establish its validity before the proper officers? And I stand here to-day sir, to say, that with an exception, of which I shall soon speak, *to procure such a lawful investigation of the authority under which they claimed to act, was the part I took in that day's proceedings, and the only part.* I supposed it to be my duty as a citizen of Ohio—excuse me for saying that, sir—as an outlaw of the United States [much sensation], to do what I could to secure at least this form of Justice to my brother whose liberty was in peril. *Whatever more than that has been sworn to on this trial, as an act of mine, is false, ridiculously false.*"

"I did say to Mr. Lowe, what I honestly believed to be the truth, that the crowd was very much excited, many of them averse to longer delay and bent upon a rescue at all hazards; and that he being an old acquaintance and friend of mind, I was anxious to extricate him from the dangerous position he occupied, and therefore advised that he urge Jennings to give the boy up. Further than this I did not say, either to him or to any one else.

"The law under which I am arraigned is an unjust one, one made to crush the colored man, and one that outrages every feeling of Humanity, as well as every rule of Right. \* \* \* I remember the excitement that prevailed throughout all the free States when it was passed; and I remember how often it has been said by individuals, conventions, communities and legislatures, that it never could be, never should be, and never was meant to be, enforced."

"But I have another reason to offer why I should not be sentenced \* \* \* I have not had a trial before a jury of my peers. \* \* \* The Constitution of the United States guarantees—not merely to its citizens—but to *all persons* a trial before an *impartial jury*. I have had no such trial. The colored man is oppressed by certain universal and deeply fixed *prejudices*. Those jurors are well known to have shared largely in these prejudices, and I therefore consider that they were neither impartial, nor were they a jury of my peers. And the prejudices which white people have against colored men grow out of this fact; that we have, as a people, consented for two hundred years to be *slaves* of the whites. We have been scourged, crushed, and cruelly oppressed,

and have submitted to it all tamely, meekly, peaceably; I mean as a people, and with rare individual exceptions. \* \* \* And while our people as a people submit, they will as a people be despised. \* \* \* The jury came into the box with that feeling. They knew that they had that feeling and so the Court knows now, and knew then. The gentlemen who prosecute me have that feeling, the Court itself has that feeling and even the counsel who defended me have that feeling.

"I was tried by a jury who were prejudiced; before a Court that was prejudiced, and defended, though ably, by counsel that were prejudiced."

"One word more, sir, and I have done. I went to Wellington, knowing that colored men have no rights in the United States which white men were bound to respect; that the courts had so decided; that Congress had so enacted; that the people had so decreed. There is not a spot in this wide country, not even by the altars of God \* \* \* no, not in the old Philadelphia Hall, where any colored man may dare to ask a mercy of a white man. \* \* \* When I appeal to Congress, they say he has a right to make me a slave, and when I appeal to your Honor, *your Honor* says he has a right to make me a slave, and if any man, white or black, seeks an investigation of that claim, they make themselves amenable to the pains and penalties of the Fugitive Slave Act, for **BLACK MEN HAVE NO RIGHTS WHICH WHITE MEN ARE BOUND TO RESPECT.** [Great applause.] I, going to Wellington with the full knowledge of all this, knew that if that man was taken to Columbus, he was hopelessly gone, no matter whether he had ever been in slavery before or not. I knew that I was in the same situation myself, and that by the decision of your Honor, if any man whatever were to claim me as his slave and seize me, and my brother" [John M. Langston] "being a lawyer, should seek to get out a writ of *habeas corpus* to expose the falsity of the claim, he would be thrust into prison \* \* \* for interfering with the man claiming to be in pursuit of a fugitive, and I, by the perjury of a solitary wretch, would, \* \* \* be helplessly doomed to lifelong bondage, without the possibility of escape.

"Some persons may say that there is no danger of free persons being seized and carried off as slaves. No one need labor under such a delusion, sir, *four* of the eight persons who were first carried back under the act of 1850, were afterwards proved to be *free men*. The pretended owner declared that they were not his, after his agent had 'satisfied the Com-

missioner' that they were by his oath. They were free persons, but wholly at the mercy of the oath of one man. \* \* \* A letter was not long since found upon the person of a counterfeiter when arrested, addressed to him by some Southern Gentleman in which the writer says: '*Go among the niggers; find out their marks and scars; make good descriptions and send to me, and I'll find masters for 'em.*'

"That is the way men are carried 'back' to slavery.

"But I stand up here to say, that if for doing what I did on that day at Wellington, I am to go in jail for six months and pay a fine of a thousand dollars, according to the Fugitive Slave Law, and such is the protection the laws of this country afford me, I must take upon myself the responsibility of self-protection; and when I come to be claimed by some perjured wretch as his slave, I shall never be taken into slavery.

"I stand here to say that I will do all I can, for any man thus seized and held, though the inevitable penalty of six months imprisonment and one thousand dollars fine for each offence hangs over me. We have a common humanity. You would do so; your manhood would require it; and no matter what the laws might be, you would honor yourself for doing it; your friends would honor you for doing it; your children through all generations would honor you for doing it; and every good and honest man would say, you had done *right*!"

[Great and prolonged applause, in spite of the efforts of the Court and the Marshal.]

On the very day Langston made his eloquent plea and received his sentence, three of the Rescuers living in Wellington, appeared in Court by their attorney, Sherlock J. Andrews, and entered a plea of *nolo contendere* and were sentenced to pay a fine of \$20 each, to pay the costs of the prosecution and to be committed to jail for twenty-four hours. They were persuaded to do this by the apparent hopelessness of making a successful defence and by the assurance of the District Attorney, that he did not consider them in reality responsible for the rescue; and that "The Oberlinites are the ones the Government wishes to punish. \* \* \* We shall convict all

the Oberlinites."<sup>219</sup> This was confirmation from an official source of the opinion which had been generally formed and expressed that the main object of the prosecution was political rather than remedial. Oberlin (College and town) was singled out for attack, because of its freely expressed anti-slavery views and its sympathy for a mistreated and oppressed race. Free speech and humanitarian action were to be suppressed in Oberlin and that would bring about universal acquiescence in the extension of slavery and the enforcement of the Fugitive Slave Law. The Republican party would be pilloried, as advocating violations of law and of a solemn compact entered into for the preservation of the Union. Its speedy dissolution must inevitably follow.<sup>220</sup>

<sup>219</sup> The *Norwalk Reflector* said, May 17, 1859, "Thus it is we are told by this too, of a slavery-ridden administration that it is not the violation of the infamous Fugitive Slave Law that is regarded with horror by him and his masters, but the love of liberty manifested by the men of Oberlin." The *Oberlin Evangelist* said, May 25, 1859, "Oberlin stands conspicuous for its hatred of oppression and its love of liberty. Now this bitter war against Oberlinites is only a deadly blow aimed at the very vitality of liberty. Pro-slavery Federal usurpation cares nothing for Oberlin as such. It is her love of liberty and hatred of oppression that must be crushed out." See also, *Cleveland Leader*, May 13, 1859; *Cleveland Herald*, May 12, 1859; *Ashtabula Sentinel*, May 12, 1859; *Independent Democrat*, May 18, 1859; *Portage County Democrat*, May 18, 1859; *Western Reserve Chronicle*, May 18, 1859. The *Ohio State Journal* said, May 9, 1859, "It would seem then, that it is not so much a violation of the fugitive slave law which is to be punished by the United States, as the anti-slavery sentiment. That is the thing. It is Oberlin which must be put down. It is freedom of thought which must be crushed out."

<sup>220</sup> The *Ohio Statesman* (Dem.) said April —, 1859, "The conviction of Bushnell at Cleveland for the rescue of a fugitive slave from the custody of the United States officers at Oberlin will have a very salutary effect upon the ferocious abolitionists of that classic vicinity. Presuming upon the *perverted sentiment of the majority of the people* of their village, and instigated by the harangues of political promoters and Professors, the Oberlinites have long defied the law. They have now found that it is not altogether powerless to vindicate itself. \* \* \* The Republican Party has seen the day of its utmost fervor and strength, and its decline will now be rapid." [The italics are ours]. This was reprinted, with approval, in the *Cleveland Plain Dealer*, April 20, 1859; and, by way of exposure, in the *Painesville Telegraph*, April 28, 1859. The *Cleveland Plain Dealer* said, Jan. 19, 1859, "The law we have always contended would be much less obnoxious and more effective were it shorn of certain useless and highly objectionable features;" but said, April 7, 1859, "Oberlinism was Abolitionism boiled down to the quintessence of bitterness. Its reputation in this respect has been world-wide. \* \* \*



## HOTHOUSE GROWTH OF ANTI-SLAVERY SENTIMENT.

### EXTREME STATE-RIGHTS DOCTRINE ADVOCATED ON THE RESERVE.

The thought that anti-slavery men could be forced, by prosecution and imprisonment, to give up, or suppress, their honest convictions was another instance of "defective psychology." Oberlin simply expressed, in words and action, feelings common to all humane persons who were unaffected, directly or indirectly, by selfish considerations or political ambition. It is hard for the present generation to understand how Democratic officials, editors and

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We hope that this Rescue case will open their eyes to their obligations to the Government under which they live and make them better and wiser citizens." The *Lorain County Eagle* (Dem.) said, Jan. 12, 1859; "We have believed and still believe that the Republican party, as a party attained and passed its zenith during the Kansas embroglio of 1856, and but for the exciting nature of that game, so high a point of numerical strength could never have been reached, and now it will require some new infusion of the Divine to kindle the smouldering embers of that decaying faction to that energy and strength which it manifested in the memorable campaign of 1856." The *Portage Sentinel* (Dem.) said, Oct. 7, 1858: "The Republican party is unmistakeably approaching its dissolution. \* \* \* Its platform now lies like an unsightly pile in the gutter, and the party which made it is 'passing away—passing away.'" And again, April 21, 1859, after announcing the verdict in the Bushnell case, "We hope Judge Willson will put the sentence at such fine and imprisonment as will satisfy the 'higher-law' gentlemen of Oberlin that while among mortals, the laws must be obeyed. When a class of divines, professors and other learned men teach resistance to law as a Christian duty, if any of them are convicted, they ought to be punished to the utmost extent of the law. It will do them good. The *Cleveland Leader* said, April —, 1859, "No intelligent man can resist the conviction that this is a political trial, with no other object than to make political capital for a set of fellows in Northern Ohio who use this as a means of advancing their party against the Republicans generally. \* \* \* The fugitive slave act is felt by the people of Northern Ohio, to be so repugnant to every principle of right and to good government that they have treated it as a dead letter." The *Ashabula Sentinel* said, April 14, 1859, "In order more effectually to crush out all free principles in Northern Ohio, and to establish the full and undisputed reign of Locofocos and kidnappers, warrants were issued for and indictments found against men who, by the very nature of known circumstances and facts could have had no possible connection with the rescue of the said John. \* \* \* Nor was there any reason to suppose that Mr. Plumb was guilty of the offense laid to his charge. He is a lover of free principles, and an unflinching, uncompromising opponent of the spurious 'Democracy' taught by the official tools of the Legrees of the rice-swamps and cotton fields of the extreme South. This is the way the public treasure is to be expended with a lavish hand in attempting to compass his injury by the confiscation of his property and the incarceration of his person."

politicians ever hoped to make political capital out of a vigorous enforcement of a law which "shocked the moral sense of a majority," to use Judge Willson's own language, and which nearly all Judges felt obliged to apologize for, when charging juries of fellow-citizens of the same political faith as themselves.<sup>220</sup>

How could any man hope that, in the long run, injustice and inhumanity would win in a battle against conscience and humanity? The vindictive assaults of counsel for the prosecution upon Oberlin men and ideas, in general, were resented, not merely by them but, by all who were prompted by like feelings, and furnished just the stimulus needed to revive "the utmost fervor and strength" and "to kindle anew the smouldering embers" of the Republican party. The Fugitive Slave law, which had escaped criticism in Northern Ohio, after its first condemnation in 1850 and 1851, because no attempt had been made to enforce it, was now denounced anew in the pulpit, the press, in political conventions and public gatherings throughout the Reserve.<sup>221</sup> Judge Willson and the Democratic news-

<sup>220</sup> *Supra*, pp. 50 to 53 incl.; 106, 108. In charging the jury in the Langston case, Judge Willson said, "Congressional legislation often becomes distasteful to a portion of the people of the country. It is so at the South with reference to laws enacted to suppress the slave-trade, and peculiarly so at the North with reference to the fugitive slave law of 1850. \* \* \* It is the first duty of a juror, who is sworn to determine the guilt or innocence of one charged with crime to divest himself of any and all prejudices he may have against the law itself, or of any partiality, or ill-will, he may have towards the accused. \* \* \* This caution is given, Gentlemen, not because it is feared that you will *intentionally* swerve from a true and just line of duty, but simply that you may guard and brace yourselves against any undue influence while considering and weighing the evidence in the case."

<sup>221</sup> Rev. James A. Thome, pastor of the West Side Congregational Church in Cleveland, and President of the Board of Education, a native of Kentucky and the son of a slaveholder who had emancipated his slaves, said in a sermon preached April 17, 1859, speaking of the District Attorney, Judge and Jury in the Rescue cases, "They have awakened the indignation of the people against themselves; and have concentrated their sympathies upon the prisoners. They have done what they could to exasperate the citizens of Northern Ohio against slave-catchers, and against their Federal allies, the subalterns of a corrupt administration, stationed on this free soil to enforce an intolerable law. They have scattered fire-brands in every part of this Reserve and they will have enough to do to quench the flames, especially if they persist in a course which can only add fuel and fury

## THE RESERVE OF ANTI-SLAVERY SENTIMENT.

### THE RESERVE OF ANTI-SLAVERY SENTIMENT IN THE RESERVE.

THE RESERVE OF ANTI-SLAVERY SENTIMENT could be described as the reserve of sentiment, to give up, which the RESERVE OF ANTI-SLAVERY SENTIMENT was another name for. Oberlin simply stated, I think, the feelings common to the RESERVE OF ANTI-SLAVERY SENTIMENT were manifested, directly or indirectly, in the RESERVE OF ANTI-SLAVERY SENTIMENT or political sentiment in the present generation to the RESERVE OF ANTI-SLAVERY SENTIMENT, editors and

the RESERVE OF ANTI-SLAVERY SENTIMENT in their obligations to the RESERVE OF ANTI-SLAVERY SENTIMENT and their citizens." The RESERVE OF ANTI-SLAVERY SENTIMENT said, Oct. 7, 1858: "We have believed and still believe in the RESERVE OF ANTI-SLAVERY SENTIMENT and passed its month during the RESERVE OF ANTI-SLAVERY SENTIMENT of that year, as

the RESERVE OF ANTI-SLAVERY SENTIMENT of the RESERVE OF ANTI-SLAVERY SENTIMENT and now it is the RESERVE OF ANTI-SLAVERY SENTIMENT and enough which it manifested in the RESERVE OF ANTI-SLAVERY SENTIMENT." The RESERVE OF ANTI-SLAVERY SENTIMENT said, Oct. 7, 1858: "The RESERVE OF ANTI-SLAVERY SENTIMENT is the RESERVE OF ANTI-SLAVERY SENTIMENT." Its RESERVE OF ANTI-SLAVERY SENTIMENT is the RESERVE OF ANTI-SLAVERY SENTIMENT and the party which made it the RESERVE OF ANTI-SLAVERY SENTIMENT. The RESERVE OF ANTI-SLAVERY SENTIMENT said, April 21, 1859, after announcing the RESERVE OF ANTI-SLAVERY SENTIMENT will put the sentence "The RESERVE OF ANTI-SLAVERY SENTIMENT is the RESERVE OF ANTI-SLAVERY SENTIMENT" of Oberlin in the RESERVE OF ANTI-SLAVERY SENTIMENT. When a class of divines, RESERVE OF ANTI-SLAVERY SENTIMENT and RESERVE OF ANTI-SLAVERY SENTIMENT to live as a Christian duty, if RESERVE OF ANTI-SLAVERY SENTIMENT, RESERVE OF ANTI-SLAVERY SENTIMENT in the RESERVE OF ANTI-SLAVERY SENTIMENT of the RESERVE OF ANTI-SLAVERY SENTIMENT. The RESERVE OF ANTI-SLAVERY SENTIMENT said, April 21, 1859: "No RESERVE OF ANTI-SLAVERY SENTIMENT that this is a political trial and no other RESERVE OF ANTI-SLAVERY SENTIMENT in a RESERVE OF ANTI-SLAVERY SENTIMENT in Northern Ohio who use the RESERVE OF ANTI-SLAVERY SENTIMENT and RESERVE OF ANTI-SLAVERY SENTIMENT generally." \* \* \*

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politicians ever hoped to make political capital out of a vigorous enforcement of a law which "shocks the moral sense of a majority," to use Judge Williams' own language, and which nearly all Judges are obliged to apologize for, when charging juries. fellow-citizens of the same political faith as themselves. 220\*

How could any man hope that, in the long and unjustice and inhumanity would win it a battle against conscience and humanity? The vindictive assaults of counsel for the prosecution upon persons, men and ideas, in general, were resented not only by them but, by all who were prominent in the feelings, and furnished just the stimulus necessary to revive "the utmost fervor and strength" and to kindle anew the smouldering embers of the Republican party. The Fugitive Slave law, which had escaped criticism in Northern Ohio after its condemnation in 1850 and 1851, because it had been made to enforce it, was now denounced anew in the pulpit, the press, in political meetings and public gatherings throughout the State. Judge Willson and the judges of the Supreme Court

papers and politicians were confronted with their own records made just after the enactment of the law and before the Northern wing of the Democratic party had become sub-servient to the slave

to them." The *Independent Democrat*, Elyria, said, April 27, 1859, "These case are creating an unprecedented excitement throughout the North. From Maine to Iowa comes up the deep and earnest protest of a wronged and injured people who justly regard this case as a cool attempt on the part of the Federal Government to override all State authority and compel the Freemen of the North to become the menial servants of those who hunt human chattels. The response to such mandates—we will *never submit*." The *Oberlin Evangelist* said, April 27, 1859, "But the general government is under the control of slave holders. Of this fact, the nation perhaps needs more stirring proof. To bring out this proof, suffering and wrong must fall heavily somewhere on the friends of freedom and Christianity. It is well that it has fallen on those who shrink not from meeting the sacrifice." The Faculty and Trustees of Oberlin College issued a statement "To their Friends and Patrons throughout the Country," in which they said, among other things, "How long this persecution is to continue we have no means of knowing. If the extreme penalty should be executed upon all of the accused and other victims should follow, it would have no tendency to convince us of the righteousness of the fugitive act, nor can we give any guaranty that it would render man-hunting in our community more safe or more successful. \* \* \* Our trials will, we trust be borne with cheerful patience, if by that means we can see the country aroused to shake off the tyranny now resting upon her. In this view of the case we cannot overlook the remarkable coincidence, that at the same moment when the Federal Courts at the North are inflicting severe penalties on those who, under the impulses of humanity, have rescued a fellow-man from bondage, at the South the same Courts are acquitting the pirates engaged in stealing men from their native land. \* \* \* What can be more apparent than that the struggle between Slavery and Freedom in this country must soon terminate in the downfall of one or the other?" This was published in the *Oberlin Evangelist*, May 25, 1859, with this editorial comment, "Now this bitter war against Oberlinites is only a deadly blow aimed at the very vitality of Liberty. Pro-slavery Federal usurpation cares nothing for Oberlin as such. It is her *love of Liberty and hatred of oppression that must be crushed out*. It is the first great act in the tragedy of the Dred Scott decision in Ohio, which purposes to crush out liberty everywhere, if the people will only submit." The *Painesville Telegraph* said, May 12, 1859, "He must be shortsighted indeed who cannot see that such partisan decisions as the Dred Scott decision by the Supreme Court of Washington and such transactions as the District Court in Cleveland have been engaged in for several weeks past, must have the effect to awaken a sense of destestation and contempt with the people for all such malformation in the way of a Judiciary. These transactions are the sure precursors of revolution in these departments of our Government system." And again, July 28, 1859, "If our country ever frees herself from the crushing weight of the slave power, it must be by a determination of the people in the proper way to resist all unconstitutional efforts to compel them to sustain it; and to do this the people must know what their rights are, and how they have been invaded. The trial of the Oberlin Rescuers has done more than anything that has ever before transpired in this part of Ohio to inform the people upon the subject of State Rights and Federal encroachments. \* \* \* The battles of Liberty must be fought again and again; and we may hope that an agitation, brought about by this and similar trials, will bring to the block of public opinion, and relieve from the cares of office, all who are for subverting our liberties and rights through unconstitutional federal legislation."

power.<sup>\*\*\*</sup> In answer to the argument frequently advanced that the act was an essential part of the Compromise Measures of 1850 and that its enactment and strict enforcement were necessary to prevent a dissolution of the Union, men began to inquire whether the Union was worth saving at any such sacrifice of principle and such individual and community degradation.<sup>\*\*\*</sup> The attempt to enforce the Fugitive Slave Law at the North excited all the more indignation because of the contemporaneous failure of United States Courts and juries at the South to convict, or even indict men guilty of open and notorious violation of the laws to suppress the

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<sup>\*\*\*</sup> *Supra*, pp. 97 to 104, 106 to 108 incl. 2. Judge Spalding, at the beginning of his argument in the Bushnell case, read to the Court the resolutions drawn up by the committee of which Judge Willson was a member and passed at a meeting of Cleveland citizens in Oct. 1850.

<sup>\*\*\*</sup> Joshua R. Giddings said, in answer to threats of secession made by Mr. Bryant of Texas in the winter of 1858-9, "These threats have lost their effect either upon gentlemen in this Hall, or upon the country. \* \* \* We are not alarmed at threats of a dissolution of this Union. And when I said that I would vote for a resolution of repeal of the Texas annexation, if the gentlemen would bring it forward, I meant that he should understand me as candid and sincere in that declaration. And, sir, we have done for Texas what we have done for no other State in this Union. We have paid her debts, and that to the disgrace of the men who took the money from our pockets to do it. \* \* \* We conquered that territory by the force of our arms and conferred it upon Texas." The *Ashabula Sentinel* published this speech, Jan. 20, 1859, with the comment "That is the way to meet these fire eaters. Tell them to go whenever they talk of dissolving the Union." The *Painesville Telegraph* said, March 31, 1859, "We have been thinking for some time that one thing must be done or this Union will be dissolved, and that is, Slavery must be abolished in this land." The *Akron Beacon* said, April —, 1859, "It is about time the question was made whether white men in the free States have any rights which the negro-catchers are bound to respect, and whether the State, or the kidnappers, are sovereign upon the soil of Ohio." [Quoted in *Cleveland Leader*, April 22, 1859.] In a letter to Ralph Plumb, dated May 4, 1859, Giddings wrote, "The people, finding this government to have become 'destructive of the lives, the liberties and the happiness of its citizens, will Alter or Abolish it and organize its powers in such form as to them shall seem most likely to effect their SAFETY and HAPPINESS.'" [Quoted in *Cleveland Leader*, May 6, 1859.] A Republican County Convention held at Salem, O., in May, 1859, passed the following resolution, among others:—

"Resolved, That if the unheard of doctrine of that court is to prevail as a sanction of law, that for one to counsel a legal and open investigation of the right of kidnappers to enter our borders and capture whomsoever their cupidity prompts—constitutes an offense, punishable under the provisions of the Fugitive Slave Act, then, have we reached the utmost verge of patience and meek submission, and are constrained with Patrick Henry to exclaim, 'is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery.'" [Quoted in *Ohio State Journal*, May 28, 1859.]

African slave trade. The cases of the slaver *Echo*, the yacht *Wanderer*, and other vessels landing slaves in Georgia, South Carolina and Florida were closely watched by Northern editors and politicians and the various failures of justice, pointed out and commented upon.<sup>224</sup> Even Democratic papers called

<sup>224</sup> The *Cleveland Herald*, Aug. 13, 1858, quoted from the *Savannah Republican*, *Savannah News* and *Charleston Courier*, accounts of the landing of a number of Africans, variously stated at from 450 to 750, from the bark E. A. Rawlins. The *Cleveland Leader*, and *Herald* reported, Aug. 31, the capture of the Slaver *Echo* and landing of over 300 negroes near Charleston, S. C., and followed up the announcement with further particulars as to the seizure, the disposition made of the Africans and the prosecution of the guilty parties, quoting freely from Southern papers Sept. 1, 3, 7, 8, 11, 13, 22 and 25, 1858. A Charleston correspondent of the *N. Y. Herald* said:—"The slave crew were carried to our District jail this day handcuffed. Think of that!—Twenty men carried handcuffed through the streets of a slave-holding city by the President of the Young Men's Christian Association! And for what? For purchasing negroes in Africa and bringing them to the New World. For rescuing undying souls from the night of the heathen barbarism and transporting them to the full blaze of the Christianity of the Nineteenth Century." [Quoted, with similar passages from the *Charleston Courier*, and *Mercury* in the *Herald*, Sept. 3, 1858; and from the *Charleston News* and *Richmond Enquirer*, Sept. 7, 1858.] The philanthropy of the captors and the Southern planters was re-enforced by the facts, also stated in the Southern papers quoted, that the negroes were worth about \$500 apiece and could be delivered on the coast of Cuba or Florida, at a cost of \$10 or \$15. They were sent to Liberia by the U. S. Government. [*Cleveland Herald*, Dec. 16, 1858.] The *Cleveland Leader*, Dec. 17, and *Herald*, Dec. 18, 1858, announced the landing of a cargo of 350 negroes from the yacht, *Wanderer*, near Brunswick, Georgia, and gave further particulars, quoting from the *Savannah Republican*, *Augusta* (Ga.) *Chronicle* and *Sentinel*, *Macon* (Ga.) *Journal*, *Augusta Dispatch*, *Columbus* (Ga.) *Enquirer*, Dec. 18, 23, 24, 29, 30 and 31, 1858. These negroes were scattered through the South—some being taken as far as Memphis—and sold for from \$250 to \$750 apiece, while slaves raised in Virginia brought from \$1,000 to \$1,500 each. The authorities succeeded in capturing but two of the lot, and the *Savannah Republican* [quoted by the *Herald*, March 1, 1859] proposed that the Governor of Georgia should take them and sell them at auction on the humane pretext that "this will be much better for the negroes than to be sent back to Africa by the Government." The Washington correspondent of the *N. Y. Post*, under date of March 28, 1859, said:—"African importations continue at the South, and evidence is before the government showing that a large amount of capital is invested in the business \* \* \* defenders of the Administration say, 'Measures have been taken by the government to enforce the laws.' Whereas the simple truth is that the government has not and will not enforce the laws at the South. It will do it by force of arms in Boston, or New York, but not in a single slave State." [Quoted in *Cleveland Herald*, April 1, 1859.] The *Memphis Avalanche* said, April 9, 1859, "Three of the six native Africans brought here a few days since were sold yesterday \* \* \* and brought respectively \$750, \$740 and \$515. \* \* \* These negroes are a part of the cargo of the yacht *Wanderer*, landed some months since." The *Cleveland Leader*, May 7, 1859, quoted this and said, "Mr. Buchanan gives his personal attention to trials of citizens of Ohio for violating the Fugitive Slave Law, but has no information regarding the slave trade opened between the coast of Africa and the South." The *Southern Guardian*, Columbia, S. C., said July 29, 1859, "A gentleman at Tallahassee, Florida, received a letter from Jacksonville on Sunday

attention to the utter disregard of these laws on the part of their Southern brethren, and warned them that they could not expect the North to comply with, or enforce the Fugitive Slave Law at the North, while they persisted in the South in ignoring the laws for the suppression of the African slave trade. \* \* \*

last, postmarked 18th, on the back of which was endorsed 'a cargo of six hundred Africans has been landed on the Florida coast, near Smyrna.' [Quoted in *Cleveland Herald*, August 4, 1859.] The Washington correspondent of the *N. Y. Herald* said, "The African slave trade is meeting with great success on the coast of Florida and the Government has not taken the first efficient step to arrest it. \* \* \* during the past year a large number of slaves have been landed and successfully transported into the interior of the country, and he estimates the late increase of slave population by importation since 1848 at over fifteen thousand!" [Quoted in *Cleveland Leader*, July 15, 1849.] See also *Cleveland Leader*, March 8 and 25; April 26; May 5, 9; June 25; July 30, and August 9, 1859; *Ohio State Journal*, June 4, 1859; *Summit County Beacon*, May —, 1859; *Ashtabula Sentinel*, Dec. 30 1858; *Ashtabula Telegraph*, Sept. 4 and 11; Dec. 18, 1858; Feb. 26 and May 14, 1859; *Guernsey Times*, March 24, 1859; *Jeffersonian Democrat*, Dec. 17 and 24, 1858, and Jan. 7, 1859; *Independent Democrat*, Dec. 22 and 29, 1858, and June 8, 1859; *Norwalk Reflector*, Sept. 21, and Dec. 28, 1858; and March 8, 1859; *Oberlin Evangelist*, May 25, 1859; *Painesville Telegraph*, Dec. 23 and 30, 1858; April 7 and 14, May 19 and June 9, 1859.

\* \* \* The *Cleveland Plain Dealer* said, Dec. 15, 1858, "Slaves in the South are selling at an average of \$1,000 per head. They can be procured from the African coast for about \$125 per head, securing to the trade a profit of over 700 per cent. \* \* \* The money making mad-men of the South are getting not only numerous and powerful, but methodical. They call conventions and pass resolutions denouncing the law of the United States prohibiting the Slave Trade as *unconstitutional*." In this way they commence creating a public opinion to sustain their future action. Then comes the case of the slaver *Echo*, a full narrative of its capture being found in this day's paper, in which a South Carolina Jury refused to indict the crew, although there could not have been a doubt as to the evidence of their guilt. Lastly, a vessel makes its appearance freighted with Slaves from the African coast and meets with no difficulty in landing them where they are spirited away almost without observation. \* \* \*

This is, undoubtedly, but the commencement of this nefarious traffic. The tocsin has been sounded throughout the South that the law prohibiting it is unconstitutional. The owner of the slaver *Echo* has been set at liberty by a Southern jury, and there is now no law to punish the offense. One cargo has been successfully landed, and others will follow fast." The *Nashville Banner* in speaking of these cases" [*Echo* and *Wanderer*] says, "We of the South complain of the North because the fanatics of that section rescue fugitive slaves from the custody of the U. S. officers. \* \* \* Our fanatics are even worse than the fanatics of the North, for they add the crime of perjury to their want of respect for the law." [Quoted in *Cleveland Leader*, April 26, 1859.] The *Logan Gazette* (Dem.) said May —, 1859, "But the Federal Courts which have refused to punish the murderous man-stealers of the South, have not only violated law; they have outraged our common humanity and deserve the execration of mankind. It is idle and worse than idle for Southern men to ask or to hope for a permanent continuance of this State of things. If they will not punish the remorseless villain whom the civilized world has agreed to designate a pirate, because the language offers no word more suggestive of the infernal, the North will cease to punish as criminals those who spit upon the Fugitive law and who, in the name of God, infract and disregard its require-



The *Weekly News*, Enterprise, Miss., April 14th, 1859, published an advertisement, signed by eighteen persons who refer to firms in Mobile, offering to pay \$300 per head for one thousand native Africans between the ages of fourteen and twenty.<sup>226</sup> Not one of the officers or crews of these slavers was punished for his violation of the laws against the African slave trade. And no attempt was made, after the deportation of the negroes brought in by the *Echo*, to return other imported Africans to their native land.<sup>227</sup>

ments. That law was always odious to the North, and to the whole North. \* \* \* But if the South will do nothing for the enforcement of law, the preservation of harmony and the propitiation of a sentiment, which ought to be as native to the South as to the North, why, then let us henceforth bid the fugitive God-Speed! on his way to Canada, and vex no more with onerous prosecutions the men who aid him on his perilous road." The *Cincinnati Enquirer* said, April—, 1859, speaking of the acquittal of the *Echo* slaves, "The *Charleston Mercury*, the leading disunion paper of the South, supposes \* \* \* every other case will be *Echo* to this. Suppose like considerations would influence juries and U. S. Commissioners at the North, on the hearing of the fugitive-slave cases? How would the *Mercury* like it? How would the South like it?"

<sup>226</sup> *Cleveland Leader*, and *Herald*, May 5, 1859. *Ohio State Journal*, June 27, 1859.

<sup>227</sup> The *Cleveland Plain Dealer*, Oct. 13, 1858, quoted an editorial from the *Columbia (S. C.) Guardian*, under the heading "A NOVEL VIEW OF THE SLAVER ECHO'S CASE," as follows: "The slaves on board the *Echo* were regularly sold by the Africans and purchased by the captain of the *Echo*. They were therefore his *bona fide* property, and we think the officers of the *Dolphin* committed piracy, if there be piracy in the matter by forcibly taking possession of property that did not belong them. \* \* \* The crew of the *Echo* will be here in a few days. Let them come. We hazard the assertion that not a hair of their heads will be harmed." The *Ohio State Journal* said, April 26, 1859, "If the negro is rescued a United States Marshal packs the Grand Jury to indite the rescuer and the Petit Jury to try them, and regards it as his first duty to secure a conviction. \* \* \* But the slaver *Echo* was captured with a cargo of slaves on board; the officers and crew taken to Charleston and tried in the District Court; the evidence was conclusive and not contested at all \* \* \* but the parties were acquitted. In Savannah a similar trial is pending. Mr. Lamar, of the *Wanderer*, admits having been engaged in the slave trade, declares that he shall continue in it, and defies the Government. No one expects his conviction." And again, May 13, 1859, "United States Laws against a traffic that is revolting to the humanity of the civilized world are treated as a mere farce. But at the North a failure to convict of a trespass on the fugitive slave law would cost the federal officers their places. The *Mississippian* said, May —, 1859, "Under these enactments the *Echo* prisoners have been indicted, tried and found *not guilty*. We rejoice at this result. It establishes the unavailability of the laws interdicting the African slave trade so far as their enforcement depends upon the public sentiment of the South." [Quoted in *Ohio State Journal*, May 17, 1859.] The *Cleveland Plain Dealer* said, May 23, 1859, under the heading "THE UNION SPLITTERS," "At both ends of this Confederacy the Union splitters are at work. An American vessel, a slave trader, is caught in the very act of piracy upon the high seas. She is taken into a Southern port,

The Summit County Beacon said, May —, 1859:

"Men naturally ask, how is it that the Fugitive Slave Act of 1850 has swallowed up all other penal legislation of Congress? Why is it that the whole energies of the Government are put forth for the enforcement of *this law*, so that its infraction, in one jot or tittle, is visited with instant pursuit; while the pirates who bring slaves from the coast of Africa into our Southern ports, are subjected to the faintest and most languid 'make believe' prosecution, and discharged to new criminal enterprises of the same nature? \* \* \*

"It is not without abundant grounds one may assert that a prime object of these rescue prosecutions is to awe the refractory men of Northern Ohio—who have a way of thinking for themselves and speaking as they think—to awe them into abject submission to the Fugitive Slave Law—and more than that, to the demands of insolent slave hunters, like this miserable Kentucky bloat, Anderson Jennings. \* \* \* The slave importing pirates go unwhipt of justice, because slave traders like slave breeders are friendly to 'the institution.' But five and thirty God fearing citizens of Ohio, men devoted to peaceful pursuits and of unblamed life and conversation, are to be pursued, harrassed, imprisoned and despoiled of their goods, because in the exercise of ordinary Christian charity they rescued a black man from a gang of ruffians, whom they had every reason to believe bloody, lawless kidnappers. \* \* \* In one point of view these Government trials are not without useful results. The Fugitive Slave law has always been odious, but nothing short of a trial under it could fully exemplify its devilish atrocity. That has been effectually done now. \* \* \* Men utter their indignation against the infamous law and the officials who administer it, in tone of hearty indignation. Such expressions come from quiet men, not noisy politicians." Quoted in *Leader*, May 10, 1859.

her crew arrested, tried by a Southern jury and acquitted. The law against piracy, which has been sanctioned by all parties and most scrupulously observed for half a century, is set aside as a thing of nought. \* \* \* In the North, a law as old as the government, passed by the first Congress, the framers of the Constitution, signed by Washington and approved by Jefferson, is resisted on the ground that it conflicts with God's Higher Laws \* \* \* thus the work of disunion goes on." And again, April 20, 1859. "The Telegraph says a verdict of 'not guilty' has been found in this case." [Slaver Echo] "What other verdict could be expected in such a case in such a country? What Oberlin is to the North, Charleston is to the South. The former has a law Higher than the Constitution, the latter a law lower than the Constitution." Also, *Cleveland Leader*, May 3, 19, 1859; *Ashtabula Telegraph*, April 2, and June 11, 1859; *Guernsey Times*, April 28, 1859; *Lorain County Eagle*, April 6, 1859; *Oberlin Evangelist*, May 25, 1859; *Western Reserve Chronicle*, May 18, 1859.

Not only was there a failure of justice in cases of African importations, but a very general protest in Southern newspapers against any attempt to enforce the laws interfering with the African slave-trade, and a general demand for the repeal of all such laws. <sup>228</sup>

Southern Conventions and public meetings listened to speeches and passed resolutions, demanding the reopening of the slave trade and denouncing the laws of the United States which interfered with the same, as unconstitutional, opposed to the material and political progress of the South and not deserving respect or obedience. <sup>229</sup>

<sup>228</sup> The *Mississippi Democrat* said, Dec. —, 1858, "The repeal of the unconstitutional laws prohibiting the African Slave Trade is becoming a necessity in the South. Everywhere in the South we hear the cry. 'More Slaves!' Without an increase of slave labor the South cannot progress. With a large increase of slaves the South will progress and grow too powerful to heed the threats of the Northern dis-Unionists. No new territory can be of use to the South unless the present number of her negro slaves is greatly augmented, which can be done only by the repeal of the laws against the slaves, and the free importation of African negroes" Quoted in the *Jeffersonian Democrat*, Dec. 24, 1858. The *Guernsey Times* said, March 24, 1859, "The *Southern Citizen* proposes a remedy for the high price of negroes as follows: 'We know a way to remedy that state of things. Advertise for a contract to land some forty thousand Africans at some point between Savannah and the Sabine River within twelve months. There will, of course, be a risk of capture by the philanthropic pirates; and some of the negroes will be lost; but that is the whole risk; as for felony, piracy, and hanging, that's all over.' " The *Apalachicola* (Fla.) *Advertiser*, a prominent journal of the Southern Democracy, said, April —, 1859, "Until the slave trade is opened and made legal, the South will push Slavery forward as a seasoning for every dish and whether the North likes it or not, like the Spanish with the garlic, it will have to be tasted in every course on the table. This is the settled and determined policy of the party at the South." Quoted in *Ohio State Journal*, April 14, 1859. The *West Point* (Miss.) *Broad Axe* said, May —, 1859, "The re-opening, or rather the legitimizing, of the African Slave Trade along with the acquisition of Cuba are the very least results that the States Rights Party of the South will think of being contented with. \* \* \* The exigencies of the times demand that it should be re-opened—every principle of justice and humanity concur with the practice." Quoted in *Ohio State Journal*, May 18, 1859.

<sup>229</sup> The *Ohio State Journal* said, May 17, 1859, "A meeting at Edgefield Court House, S. C., 'Resolved, That the opening of the slave trade is a measure essential to the material progress, political power and social advancement of the South \* \* \* That the laws in restriction of the foreign slave trade are dictated by a false and foreign sentiment, and, are not deserving therefore, of our obedience as a law abiding people.' A meeting in Claiborne County, Miss., resolved essentially the same. The following resolution was passed at a Democratic convention in Parker County, Texas, 'Resolved, That we demur to any law of Congress making the foreign slave trade piracy as a usurpation of power, not warranted by the Constitution of the United States and ought to be repealed.' The Southern Convention at Vicksburg adopted a resolution that the laws prohibiting the slave trade ought to be abolished." See also *Ohio State Journal*, June 4, 1859.

In a 4th of July (1859) address at Augusta, Georgia, Alexander H. Stephens, who had always been regarded at the North as a moderate and conservative Whig not disposed to make extreme demands, boasted of the great progress already made by the slave power in the sixteen preceding years and advocated the acquisition by purchase or conquest of Cuba, Chihuahua, Sonora, and other Central American countries. Among the gains for slavery he mentioned the annexation of Texas which, he said, could be divided so as to make five slave States; the repeal of the Missouri Compromise, the defeat of the Wilmot Proviso, and the decision of the United States Supreme Court which made it possible for Southern men to settle in all the Territories with their slave property and be protected by the Constitution against interference by the Courts or Legislatures; and the passage of the Fugitive Slave Law, of 1850, which facilitated the reclamation of runaway slaves. He had been asked what were the prospects for the future. He would repeat what he had said in 1850, that there was very little prospect of the South settling any Territory outside of Texas, "unless we increase our African stock. \* \* \* You cannot make States without people; rivers and mountains do not make them and Slave States cannot be made without Africans. Every restriction has been taken off of slavery, a fugitive slave law has been granted. There are more men at the North, today, who believe in the sound and moral condition of slavery than when he went into Congress." [sixteen years before.] His address was reported in the *Augusta Constitutionalist* and copious extracts from it appeared in the Western Reserve newspapers. <sup>230</sup>

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\*\*\* The *Cleveland Leader* said, July 19, 1859, "What he said becomes important from the fact that it undoubtedly presents, substantially, the slavery platform upon which the nominees of the Charleston Convention will be placed, and between which positions and those of the Republican party of the people of the United States will have to determine at the next Presidential election." The *Guernsey Times* said, July 28, 1859, "The Southern system of breeding negroes for the market

Mr. Stephens' address is mentioned first because it presented, what might be termed, the "irreducible minimum" of pro-slavery demands. The *Savannah News*, June —, 1859, reported a speech by Col. Gaulden, made to "one of the largest and most attentive audiences ever assembled in that city, met for the purpose of taking into consideration the repeal of all laws prohibiting the African Slave Trade." The *News* said:—

"He showed most conclusively that both the negro and Southern white men would be benefitted by the revival of the African slave trade—the former in a moral, social and religious aspect, and the latter, in political and pecuniary advantages \* \* \* and clearly exhibited to his appreciative auditory the entire *unconstitutionality* of the laws prohibiting the slave trade as was evinced in the unanimous and enthusiastic adoption of the resolutions published below."

Col. Gaulden offered the following resolutions, which were adopted unanimously, viz:

*Resolved*, As the sense of this meeting, That African slavery is morally and legally right; that it has been a blessing to both races; that on the score of religion, morality and interest, it is the duty of the Southern people to import as many blacks direct from Africa as convenient.

\* \* \*

*Resolved*, In the opinion of this meeting, the laws of the

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does not meet the wants and demands of these traffickers in human flesh and bones, and there is but one way left to supply the deficiency, which is, to revive the slave trade and import them in sufficient quantities fresh from their native land, Africa. \* \* \* This is now the policy, open and avowed, of the whole Democratic party of the Union. Will the free people of the free States sustain them?" The *Jeffersonian Democrat* said, July 22, 1859, "No better evidence than this speech of Mr. Stephens is needed to show that the present political agitation in our country arises from a conflict of two entirely irreconcilable principles, and that it must continue until one of those principles shall prevail and 'crush out the other.'" The *Independent Democrat*, July 27, 1859, said, quoting Jacob Collamar of Vermont, with approval, "There is a set of men \* \* \* who say the way to get out of all the difficulty on the subject of slavery is for us to stop talking about it. But can the talk stop? Did we make the occasion for talk? Did we annex Texas, and on purpose to add power to the slave States? Did we repeal the Missouri Compromise Act? Did we go in for Cuba and for filibustering generally, wherever there is a chance to get slave territory? Do we go in for having the slave trade opened again? Our action has been and is wholly on the defensive. The aggressive movements come all from the other side."

general Government prohibiting the importation of slaves from Africa, are all unconstitutional and void, and of no effect except as a foul blot on the most cherished institution of the South, and that they ought to be repealed by immediate legislation.

A similar meeting was held at Waynesboro, Georgia, a similar address made by Judge Shawmake, and similar resolutions adopted.<sup>111</sup>

The *Savannah News*, July 12, 1859, gave a full report of a speech made by Hon. L. W. Spratt in favor of opening the slave trade. It sets forth in such glowing terms the superior "Kultur" of the South, and the glorious nature of the "super-man," engendered thereby, that a few extracts should be inserted here, to enable readers of this generation to understand more fully what led to civil war in 1861, and to its final outcome.

"In every State beyond the South, whose political action I have been allowed to look into, there have been causes to disturb *correct opinion*. At the North, there is a *responsibility to the masses*; and political actors there can have no opinions but those the masses—necessarily of humble capacities and tastes—permit them to express. But here there is the perfect possibility. \* \* \* That which, among foreign men, distinguishes the noble and the peer, distinguishes the people in all the States and cities of the South. *They are of a ruling race*; they feel the responsibilities of that position, they are braced by the sentiments of that condition—and among men so situated—*among men without a master, but with the tone and temper of a master class*, it is that we may justly look for centres of correct opinion."

"My first reason for the advancement of this measure is, in the belief that *it will give political power to the South* and it is my firm conviction, that without political power there is no security for social and political right. The Constitution is insufficient to protect them, for a sectional majority may pass what acts they please, regardless of the Constitution. The Courts give no protection, for judges wear the ermine of that power whose acts they are to question, and they will be found, or they will be made, to hold accordant with the constitution, whatever acts a dominant majority

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<sup>111</sup> *Cleveland Herald*, June 17, 1859.

may pass. \* \* \* For minorities there is no other right but revolution."

"But, as equality was lost to the South by the suppression of the slave trade, so, would it seem, that the slave trade, would of necessity restore it. That trade reopened, slaves would come if not to the sea board, at least to the Western frontier, and for all who come, there would be a direct increase of representation in the national legislatures. There would also be a broader base for the ruling race to stand on. 3,500,000 slaves support 6,000,000 masters now. Still more would give a basis for still more and every slave that comes, therefore, might be said to bring his master with him, and thus, to add more than twice his political value, to the importance of the South.

"But to political power there is a necessity for States, as well as men, and slaves would quite as surely give them to us. Ten thousand masters failed to take Kansas, but so, would not have failed ten thousand slaves. *Ten thousand of the rudest Africans that ever set foot upon our shores, imported, if need be, in Boston ships, and under Boston slave drivers, would have swept the free soil party from the land.* There is not an abolitionist there, who would not have purchased a slave, at a price approaching the cost of importation, and so purchasing a slave, *there is not an abolitionist there who would not have become as strong a propagandist of slavery as ever lived.*"

"To an increase of power there must be population and of such a population as is necessary to extend the institutions of the South, there is no other source than Africa. Europeans will not come \* \* \* into competition with our slaves, and while, therefore, they drift in millions to the North, they will not come to us. But if they should, it is to be feared they would not come to strengthen us, or to extend slavery, but to exclude the slave."

"I venture to affirm that there are no men, at any point upon the surface of the earth so favored in their lot, so elevated in their natures, so just in their duties, and so ready for the trials of their lives, as are the six million masters in the Southern States."

"When France shall reel again, as reel she doubtless will, into the delirium of liberty—when the peerage of England shall have yielded to the masses—when Democracy at the North shall hold its carnival—when all that is pure and noble shall have been dragged down—when all that is low and vile shall have mantled to the surface—when women shall have taken the places and habiliments of men—when Free

Love unions and phalansteries shall pervade the land—when the sexes shall consort without the restraints of marriage, and when youths and maidens, drunk at noon day, and half naked, shall reel about the market places, the South will be serene and erect as she stands now—the slaves will be restrained by power, the masters by the trusts of a superior position. \* \* \* and if there be a hope for the North—a hope that she will ever ride the waves of bottomless perdition that roll around her—it is in the fact that the South will stand by her and will lend a helping hand to rescue her!”<sup>232</sup>

On the other hand, conventions and public meetings were held in almost every county on the Western Reserve at which The Fugitive Slave Law was denounced in speeches and resolutions as unconstitutional, contrary to the laws of nature and the laws of God, and not to be obeyed. The speakers and resolutions took extreme States Rights ground, that the Constitution was a Federal Compact, conferring strictly limited powers on the government of the United States; that the Courts of the United States were not the sole judges of the Constitutionality of an act of Congress; that the citizens of Ohio were entitled to the protection of the State Executive and Courts in all matters touching their personal rights and liberty; and defiantly proposed to treat the Fugitive Slave Law as utterly void and of no effect. At the so-called “Felons’ Feast,” a banquet tendered January 11, 1859, by the citizens of Oberlin to the persons indicted for the rescue of John Price, to which many prominent citizens of Lorain County and Cleveland were invited, George G. Washburn,

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<sup>232</sup> Quoted in *Cleveland Herald*, July 20, 1859. A Prussian junker could not have put the issue between autocracy and democracy more bluntly. The editor adds, “The respectable confidence gentlemen of the North who believe with the General Whig Committee, that there is no danger of the opening of the Foreign Slave Trade, should subscribe for a few Southern papers. Hardly a paper comes from the Southern cities without more or less on this subject, showing that there is no play in this matter, but a sober earnestness that should set the people of the Free States to thinking.” And again, July 26, 1859, “Will the North mark the progress of this question? The South, in two years, will present an undivided front in favor of the repeal of laws against slave piracy. \* \* \* And mark further, the Democratic party will espouse the cause of the South.”



editor of the *Independent Democrat*, of Elyria, offered the following sentiment which met with a hearty response:—

“THE FUGITIVE SLAVE ACT—Making war as it does upon all that is manly in man, we will hate it while we live, and bequeath our hatred to those who come after us when we die. No fines it can impose, or chains it can bind upon us, will ever command our obedience to its unrighteous behests.”

Ralph Plumb responded to the toast, “THE ALIEN AND SEDITION LAW OF 1798 AND THE FUGITIVE SLAVE ACT OF 1850—Alike arbitrary, undemocratic and unconstitutional” and, as part of his speech, read from the Kentucky Resolutions the following:—

“therefore the act of Congress passed July 14th, 1798, entitled ‘An Act in addition to an Act for the punishment of certain crimes against the United States, and *all other of the acts which assume to create, define, or punish crimes*, other than those enumerated in the Constitution, are altogether VOID and of NO FORCE, and that *the power to create and define such other crimes is reserved and of right appertains solely and exclusively to the respective States, each within its own territory.*”

and added, “Our country needs deliverance from the galling yoke of the slave power and it is near at hand.” : : :

At a public meeting at Oberlin, April 13, 1859, Prof. James Monroe, Principal E. H. Fairchild and John M. Langston, brother of Charles Langston, made the principal speeches. The *Cleveland Leader* gave a report of the proceedings, April 26, 1859, and said, “Any outline of J. M. Langston’s speech, as indeed is true of all the speeches, would fail to give an adequate idea of its thrilling effect.”

The following were among the resolutions adopted:—

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\*\*\* *Cleveland Leader*, Jan. —, 1859; *Cleveland Herald*, Jan. —, 1859; *Independent Democrat*, Jan. —, 1859. The italics are ours.

"3d. *Resolved*, That we hold, with Jefferson and Jackson, that the Constitution of the United States has not made the Supreme Court of the nation the ultimate arbiter of the Government, whether State or National, and *every private citizen must decide for himself whether any legitimate enactment or judicial decision be in accordance with or opposed to the fundamental law of the land.*

"4th. *Resolved*, That the Fugitive Slave Act is contrary to the spirit and teaching of our national Constitution, the principles of Christianity and the dictates of genuine Democracy.

"5th. *Resolved*, That we rejoice in the noble, humane and constitutional position assumed by the State of Wisconsin in her late conflict with the Federal usurpation—a position nobly maintained and reasserted by her people in the recent State election, and we earnestly desire and confidently believe, that our own Executive and Judicial officers in Ohio, will afford the same protection to our persecuted fellow citizens, and thus vindicate the honor and sovereignty of the State."

At a meeting in Painesville, April 25, 1859, called TO CONSIDER THE TREATMENT OF CITIZENS OF LORAIN COUNTY BY THE FEDERAL COURT AT CLEVELAND, Hon. John R. French said:—

"In the midst of these accumulating outrages upon the Sovereignty of the State, it is not strange that men are forgetting the true nature of our Federal Government. They forget that Government is Federal, in contradistinction from National. That it sprang from the *States* and not from the *People*, that it is a confederation of independent and sovereign States, for few and special purposes and those purposes clearly defined and carefully set forth in the written compact."

Hon. Wm. L. Perkins said:—

"The Constitution as now administered was made just for the purpose of catching run-away slaves. There is no power in the Government to enforce the law against piracy in the South; but if we, at the North, in any manner aid the fleeing slave over this puddle of water (pointing to the North) \* \* \* the whole power of the Government, the Courts with political juries, and the Army are brought into requisition to bring the offender to account."

Among the resolutions adopted were the following:—

“The Fugitive Slave Law is not only clearly unconstitutional, but is also so repugnant to every principle of Justice and Humanity that no Constitution or Compact can make it binding; and so derogatory to the moral sense and self respect of a free and honorable people, that it deserves no argument, but only execration and contempt.”<sup>234</sup>

At a public meeting, held April 28, 1859, at Alliance, Ohio, the following resolutions, *inter al.*, were adopted:—

“2d. *Resolved*, That upon the soil of Ohio, the citizen is indebted to the authority of the State for protection to person and to property, and the advantages generally accruing from civil government.

“3d. *Resolved*, Therefore that by every consideration which imposes allegiance to civil government *it is the duty of the individual in any conflict of jurisdiction between a State and the Federal Government to uphold the sovereignty of the State in which he resides against interference of the Federal authorities.*”<sup>235</sup>

“5th. *Resolved*, That we call upon our fellow citizens throughout the State, through primary meetings like the present to give expression to public sentiment, that not only our own official servants, but the Nation and the world may learn whether they prefer to be the submissive slaves of the despotism which assails us, or live as freemen, or die in the attempt to do so.”<sup>236</sup>

The Lorain County Republican Convention, held at Elyria, May 28, 1859, adopted the following resolutions among others:—

“3. It is absurd to contend, that the State Government is just as Sovereign within its sphere as the Federal Government is within its sphere, and yet make the latter the sole judge of the extent of the powers of both.”

“5. The law of 1850 is further unconstitutional because it denies the right of trial by jury, and because it creates a swarm of petty judicial officers, the mode of whose appoint-

<sup>234</sup> *Painesville Telegraph*, April 28, 1859; *Cleveland Leader*, April 28, 1859.

<sup>235</sup> The italics are ours.

<sup>236</sup> *Cleveland Leader*, May 2, 1859; *Jeffersonian Democrat*, May 6, 1859.

ment and compensation is contrary to the provisions of the Constitution; and said law is not only clearly unconstitutional but it is exceedingly partial, oppressive and inhuman.

"6. We agree with Henry B. Payne and the Democratic Legislature of 1851 that such a law can never receive the voluntary co-operation of our people."<sup>117</sup>

Similar meetings and conventions were held, and similar resolutions adopted, in Columbiana, Erie, Medina and Portage counties.<sup>118</sup> Perhaps the most sensational of all was one held at Jefferson, Ashtabula County, May 7th, 1859, called "To take into consideration our duty in relation to the trials now in progress before the United States Court at Cleveland, for an alleged violation of the Fugitive Slave Act, and take such measures as may seem proper to protect the rights of our fellow citizens and ourselves against the tyrannies of the Federal Government." Mr. Kellogg, who long represented this District in the State Legislature, made a stirring speech, saying among other things:—

"The great question is now being determined by the people of this nation, and especially by the people of Ohio, whether or not a few slave holders shall not only lord it over the prostrate and down-trodden African, but shall also be permitted to place the iron hand of despotism upon the necks of the free men and women of Ohio, and especially of this Thermopylae of Freedom, the Western Reserve."

After analyzing the Fugitive Slave Act and pointing out its objectionable features, he gave an account of the seizure of John Price and his rescue at Wellington, and put the question:—

"And now what say you, men and women of Jefferson? Shall the slave driver, or his more infamous hireling, the U. S. Marshal, be permitted to take from your village by virtue of that infamous enactment any individual, white or black, for the purpose of consigning such person to slavery? You say, NO! NO! and so said the men and women of Oberlin

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<sup>117</sup> *Independent Democrat*, June 1, 1859.

<sup>118</sup> *Ohio State Journal*, May 28, 1859. *Cleveland Leader*, April 25 and May 25 and 30, 1859. *Cleveland Herald*, May 24, 1859.

and Wellington. Aye! and so acted the men and women of Oberlin and Wellington, and for so saying and so acting, these free men and citizens of Ohio are now incarcerated, like common felons, in the jail of Cuyahoga County.

‘The Supreme Court of Ohio, to whom we have heretofore looked with confidence to interpose the time-honored writ of right, the Habeas Corpus, and discharging our friends from an unlawful and unconstitutional imprisonment, has failed to meet our expectations.

“And now, fellow citizens, these are some of the reasons that have brought us together this evening, and it behooves us to consider well our responsibilities as free men and citizens, for upon the action taken by us on this occasion may and probably does depend consequences of great moment, not only to ourselves but to those that shall come after us.”

He was followed by State Senator Darius Cadwell, who said, among other things:—

“Do we look upon these men” [the rescuers] “as criminals? No! Every man here respects them the more for what they have done. Which of you will not say with me, *I would have done it, and as God is my helper, I will do it whenever an opportunity presents itself.*

“Hiram V. Willson is Judge of the Northern District of Ohio. In 1850, he could denounce the Fugitive Act, as unchristian and unconstitutional and ought not to be obeyed or respected \* \* \* yet now, dazzled with the glittering of official gold, he presides over these trials, in a manner that makes the reputation of Scroggs and Jeffries respectable. And District Attorney Belden persecutes with the malignity of a viper, to atone for his apostacy to the Democratic party in 1848—a jury is packed to aid them, composed of just such men as are sent up there for jurors from this County, men who are never deemed worthy of any trust in the community where they live, and thus more credit is given to Jennings as a witness—when he stands there confessing his infamous occupation—than to a score of as pure and truthful men as ever breathed the air of heaven. \* \* \*

“The Slave Power construes the Constitution for us, and its tools among us seek to enforce their construction. Every law of Congress that conflicts with, or in any degree interferes, with slavery is held to be a violation of the Constitution, and is utterly set at defiance by the South, if not formally pronounced void by the Federal Judiciary \* \* \* The law which declares those engaged in the foreign slave trade,

pirates and worthy of death, is treated as nullity. Its open violators go unpunished and even unindicted, and responsible and influential traders and planters flauntingly offer through their public prints, to pay \$300 a head for native born Africans, and when they do it, they know, as we know, that this government will not molest them, whatever they may do in that direction."

Commenting on the refusal of the Ohio Supreme Court to grant a writ of *habeas corpus*, in the case of Simeon Bushnell, convicted, and held in jail, but not yet sentenced, for a violation of the Fugitive Slave Law, on the ground that the District Court had not taken final action and that such action might render *habeas corpus* superfluous, he added:—

"The great object of *Habeas Corpus*, is to restore the imprisoned to the freedom of which he is unjustly deprived, and I would not postpone his delivery from captivity for comity's sake, did I believe that the individual or the tribunal illegally held him. Almost every application for a *Habeas Corpus* is made by a person who is held by some other *under color of law*; and I would not stop for a discourse on courtesy with a tribunal that thus persecutingly tramples under foot the dearest rights of our citizens. If it be true that the National Government intends to resist the execution of a writ of *Habeas Corpus* granted by our State Courts, then in my opinion, *the time has come to fight*. We have been accustomed to think that we had rights independent of the Federal Government. *If we have not, then we want no Federal Government, unless we want a monarchy.*"

Among the resolutions adopted were the following:—

"*Resolved*, That we deeply sympathize with our friends now in prison at Cleveland, for their devotion to liberty; and assure them that when the Judiciary of our State shall refuse relief the necessity for action by the people will become obvious and *no prison shall hold them*.

"That the enactment known as the Fugitive Slave Law was conceived by the enemies of the Union; it violates the spirit, as well as the express language of the Federal Constitution, in its terms; it is wantonly insulting to a free people; it violates the rights of the States and is intolerably tyrannical and oppressive in its character. No person possessing the spirit of freedom will respect or obey it.

"That if the people of the Western Reserve submit to such intolerance they deserve the name of Slaves.

"That in view of the circumstances by which we are surrounded, we call upon the people of our several townships, to hold meetings and take measures for an efficient organization of those who are willing to *act* in this hour of Freedom's peril—by reviving the ancient Order of the 'Sons of Liberty,' or adopting such other measures as shall best prepare us to meet the impending emergencies."<sup>119</sup>

The threat of forcible resistance to the United States authorities in these resolutions was unmistakable. But, not satisfied with that, as soon as they were adopted, Joshua R. Giddings, "the old war horse" as people of the Reserve delighted to call him, mounted the stand, explained that the "Sons of Liberty" was an organized body, in the days preceding the Revolution, who resisted the Stamp Act and forced the British Commissioner to resign his Royal Commission, and afterwards enacted the "Boston Tea Party," thus settling for the American colonies the principle of "No taxation without representation." He concluded by presenting a charter and by-laws of such a society, and after signing it himself asked all who valued their freedom to join him. Nearly a hundred names were enrolled on the spot. W. C. Howells, editor of the *Ashtabula Sentinel* and father of the novelist and literary critic, William D. Howells, wrote to the *Cleveland Leader*, "*These men will be heard from when wanted.*"<sup>120</sup>

This feeling, that a resort to force would be necessary to stop the intolerable execution of the Fugitive Slave Law in Ohio was spreading rapidly. The *Portage County Democrat* said, May 11, 1859,

"We are approaching the conclusion, that the peaceful influence of the ballot box will never restore our Government to the principles of freedom, justice and equity on which

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<sup>119</sup> *Cleveland Leader*, May 10, 1859; *Ashtabula Sentinel*, May 12, 1859; *Ashtabula Telegraph*, May 14, 1859; *Portage County Democrat*, May 25, 1859; *Guernsey Times*, May 19, 1859; *Ohio State Journal*, May —, 1859.

<sup>120</sup> *Cleveland Leader*, May 10, 1859.

it was founded, and from which it has so far departed by the infusion of the tyrant power of the South aided by miserable, corrupt doughfaces of the North, and the scarcely less criminal conservative timidities.

"From the days of Magna Charta \* \* \* down to the bloody strife on the plains of Kansas where freemen have triumphed what important advantage has been gained for freedom, what enlarged enjoyment of inalienable rights has been secured without direct or positive force, either in attack or defense?

"Let no cheek pale then, at the prospect in the not distant future, of a revolution *not bloodless!* The time has not yet come, but the doughfaced servility, and conservative timidity, and corrupt, cringing sycophancy of the times are fast hastening the day. Let the day come and God speed the right. RESISTANCE TO TYRANTS IS OBEDIENCE TO GOD!"

And in another place:—

"Let no man recklessly throw away his life or liberty. When the conviction becomes fastened universally upon the minds of the people that the ballot box has failed as a remedy, another remedy will be sure to be applied. What that remedy will be, time will develop. A forcible writer has said, 'Revolution is the Genius of the World.' "

On this same date the *Democrat* published a letter from Cleveland one and a quarter columns long, signed LIBERTY, describing the Court, counsel and prisoners and concluding as follows:—

"The shortest, best and most practicable method of disposing of men thieves who come prowling around our homes is to set them dangling at the end of a rope four feet from the ground. We must no longer submit to the despotism of the Federal government. Our wrongs we must right, if we can, through the Ballot Box, and if this fail us, then through the Cartridge Box."

The *Cleveland Plain Dealer*, May —, 1859, ridiculed these bellicose expressions, but the depth and sincerity of the feeling back of them was no longer to be disguised. Thoughtful men saw that to prevent dangerous collisions between local organizations and Federal authorities on some slight provo-



cation, the public sentiment must find orderly expression in, and be regulated by, a central organization, representing the whole Western Reserve. A call was issued, therefore, for a mass meeting to be held at Cleveland, May 24, 1859, addressed to "the foes of slavery and Despotism and the friends of State and Individual Rights," signed by over 500 prominent citizens, and published in all the Republican papers and such others as were in sympathy with the movement.

On the appointed day an immense crowd thronged the streets and public square of Cleveland. Thousands came on special trains over the Lake Shore, Cleveland & Pittsburg, Cleveland & Toledo, Cleveland & Columbus, and Cleveland & Mahoning railroads, and other thousands came in carriages or on horseback. It was an orderly crowd, and not the slightest disturbance occurred to discredit the assembly or injure the cause which was uppermost in the minds of all. The meeting was called to order by Judge R. P. Spalding, who concluded his address with these words of admonition:—

"We have not met to set at defiance either the law or the officers of the law. We have met to manifest the will and determination of the people in a peaceful and constitutional manner. \* \* \* Let us make known our rights and our determination to maintain those rights, even to the last issue; but as you value your position as Republicans, as members of that great party of the right, let good order characterize your doings and keep you from any illegal acts."

The Committee on Resolutions contained such representative men as Senator B. F. Wade, James Monroe, W. H. Upson, J. R. French, Peter Hitchcock, William T. Bascom, and James M. Ashley. The Committee on Permanent Organization contained men of nearly equal prominence, and one young man, thirty years of age, who was to distinguish himself equally in war and in peace, and who possessed, in rare degree, the qualities of a

scholar, a military leader and an executive officer—Jacob D. Cox, of Trumbull.

Letters were read from William Dennison, the Republican candidate for Governor, Thomas Spooner, of Cincinnati, Philip Dorsheimer, of Buffalo, N. Y., Cassius M. Clay, of Kentucky, and others. Thos. Spooner wrote:—

“It is time that we had declared against a further extension of Slavery and that while we will not interfere with the rights of the States, we are determinedly fixed in our resolution, that the territories of our country shall be consecrated to free labor. \* \* \* that we will hold sacred and inviolable the rights of all, to life and liberty who may obtain a foothold in the Northwest—that no longer will we countenance a Judiciary who will ‘under safe precedents’ give up to slavery those who are seeking freedom.”

Mr. Dorsheimer wrote:—

“I agree with you” [signers of the call] “that the aggressions of the Slave power, ‘are sufficient to alarm every true patriot.’ Every concession the North has made seems to have emboldened the South to make new demands \* \* \* and finally Southern statesman seek to engage the Republic in an infamous and piratical traffic by the repeal of the existing laws against the slave-trade.”

Cassius M. Clay wrote:—

“I always hated and denounced the Fugitive Slave Law—not only because it violated the United States Constitution—the return of fugitives from labor being a duty imposed upon the States only \* \* \* but because it violated all the safeguards of freedom, jeopardized the life, liberty and happiness, not only of the humble and hated African, but of every proud Saxon in the land and made justice a mockery in all its forms, and because it *humiliated and degraded our manhood*, and fitted us to be, ourselves, slaves, which our masters long since designed.”

“What think you of the decision of the Supreme Court that the black man has no right which a white man is bound to respect? What think you of their dicta that citizens of the free States are not citizens of the *United States*? What think you of the Dred Scott decision in its *real purpose*—that slavery is the only sovereignty in these States—in the language of the Kentucky and Kansas laws—a *man’s right to*

*his slave 'is higher than all laws and constitutions?' What think you of that sort of a 'Higher Law?'*

"You intend to 'resolve,' to 'protest,' to 'denounce.' Is that all? Then go home and wear your chains! I say, *are you ready to fight?* Not to fight the poor Judge at Cleveland—not to fight the Marshal—not to fight the miserable packed jury—not to fight the tools of the Despots—but the Despots themselves! \* \* \* Are you ready for that? If not, give it up now!"

"The 'Democracy' intend to *rule the Union, or ruin the Union.* I don't intend so far as I can prevent—so far as I can control or influence the Republican party, that they shall be allowed to do either. I want a man at the head of the party, who will be the *platform* of the party. I want no corn-stalk general, but a real general.

"When the slave-holders say if you elect a Republican President, we will dissolve the Union, I don't want any one to put off the evil day which would follow such event by saying, 'let it slide!' but some one who would stand by the tomb of Andrew Jackson and become infused to such extent with the spirit of that old patriot, that he would be ready to cry out \* \* \* By the eternal—the Union shall be preserved \* \* \* That's what I mean, by asking you are you *ready to fight!* If you have got your sentiments up to that manly pitch, I am with you all through to the end!"

Many speeches were made which interested the crowd, and moved them to laughter or applause. Mr. Giddings made one of his characteristic speeches and appeared more than any other to voice the sentiments of the assembled people when he said:—

"I would have a committee appointed to-day to apply to the first and nearest officer who has the power, that he shall issue a writ for the release of those prisoners [pointing to the jail]—not the men who have now been summoned to Columbus, but those who have not been sentenced. And I want to be appointed on that committee and if so, I will promise you that no sleep shall come to my eyelids this night until I have used my utmost endeavors to have these men released."

There was immense applause, and still more when he added:—

"If it was not for the Supreme Court of the State for which I have the utmost respect, *I would ask for no judicial process,*

*but those men should be brought before you today.* \* \* \* I know that the Democratic press throughout the country has represented me as counselling forcible resistance to this law and God knows it is the first truth they have ever told about me.

"Now let all those who are ready and resolved to resist when all other means fail—when your rights are trampled into the dust—when the yoke is fixed upon your necks—and when the heel of oppression crushed your very life out—all those who are thus ready to resist the enforcement of this infamous Fugitive Slave Law—Speak out! [The roar which now arose from thousands of voices was deafening.]"

The Committee on Resolutions reported a preamble and seven resolutions. The preamble recited, *inter al.*:

"That the history of the government of the United States, as recently administered, is a history of repeated injuries and usurpations, all having in direct object the Africanization of this continent by the diffusion and establishment of slavery and the restriction and limitation of freedom. That the Dred Scott decision, reversing all the well-established rules which for ages have been the bulwark of personal liberty, yields its legitimate fruit in the recent atrocities on the Western Reserve."

The first resolution sets out that the Constitution and its amendments

"constituted a general government for special purposes, and delegated to that government certain definite powers, reserving to each State for itself the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force, and being void, can derive no validity from mere judicial interpretation; \* \* \* that this government created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself \* \* \* but that, as in all other cases of compact between parties having no common judge each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

The others, in part, set out:—

"2d. That the law commonly known as the Fugitive Slave Law of 1850 was, in the opinion of this assembly, passed

by Congress in the exercise of powers improperly assumed; "3d That one of the most alarming symptoms of democracy in the General Government, is the pliant subserviency of the Supreme Court of the United States to the objects of party politics, thus greatly diminishing that public confidence in the judiciary so essential to good order" [and this] "renders it incumbent upon the people to consider what measures are necessary to restore that tribunal to its ancient estate."

"4th. That, in the opinion of this assembly, an amendment of the federal judiciary system is indispensably necessary, so that the sovereignty of the States may be respected and individuals guarded from oppression. \* \* \* it is strongly recommended that the life tenure of judges be abolished, and that the judicial office be limited to a term of years; that Congress so remodel the judicial circuits that a majority of citizens of the United States shall have a majority of the justices of the Supreme Court."<sup>241</sup>

<sup>241</sup> To appreciate the feeling which prompted this resolution and others similar to it, passed by county and State Conventions, one should study the personnel of the U. S. Supreme Court. At the close of Jackson's administration, March 4, 1837, the Court consisted of seven Justices, four from the free States and three from the slave States. By act of Congress, two more Justices were authorized, and soon after his inauguration, Van Buren appointed Catron, of Tennessee, and McKinley of Alabama. As thus constituted, the Court consisted of four justices from the free States and five from the slave States and this division of appointments between free and slave States was maintained with brief intervals, from 1837 to 1861. John McLean was the only justice appointed from the Northwest prior to the inauguration of Abraham Lincoln in 1861. Such apportionment could not be based upon population, wealth, or the volume and importance of litigation originating in the respective sections. Its composition was such as to guarantee that the interests of slavery should be at all times protected. All but Benj. R. Curtis were appointed by Democratic Presidents. It was while such composition persisted that the important cases of *Prigg v. Pennsylvania*, 16 Pet. 539; *Jones v. Van Zandt*, 5 How. 215; *Moore v. Illinois*, 14 How. 13; *Dred Scott v. Sandford*, 19 How. 393; and *Ableman v. Booth*, 21 How. 506, were decided. See the following table for list of Justices appointed from 1811 to 1861:—

Name of Justice	State	By Whom Appointed	Date of Commission	Termination	Succeeded
Joseph Story	Mass.	Madison	Nov. 18, '11	Died, 1845	Cushing
Gabriel Duval	Md.	Madison	'11	Ret. 1838	
Smith Thompson	N. Y.	Monroe	Dec. 8, '23	Died, 1843	Livingston
Robert Trimble	Ky.	Adams	May 9, '26	Died, 1828	Todd
John McLean	Ohio	Jackson	March 7, '29	Died, 1861	Trimble
Henry Baldwin	Pa.	Jackson	Jan. 6, '30	Died, 1844	Washington
James M. Wayne	Ga.	Jackson	Jan. 9, '35	1867	Johnson
Roger B. Taney	Md.	Jackson	March 15, '36	Died, 1864	Marshall
Philip P. Barbour	Va.	Jackson	March 15, '36	Died, 1841	Duval
John Catron	Tenn.	Van Buren	March 8, '37	Died, 1864	Original
John McKinley	Ala.	Van Buren	April 22, '37	Died, 1862	Original
Peter V. Daniel	Va.	Van Buren	March 8, '41	Died, 1860	Barbour
Samuel Nelson	N. Y.	Tyler	Feb. 14, '45	Res. 1872	Thompson
Levi Woodbury	Mass.	Tyler	'45	Died,	Story
Robt. C. Grier	Penn.	Polk	Aug. 4, '46	Res. 1870	Baldwin
Benj. R. Curtis	Mass.	Fillmore	Sept. 22, '51	Res. 1857	Woodbury
John A. Campbell	Ala.	Pierce	March 22, '53	Res. 1861	McKinley
Nathan Clifford	Me.	Buchanan	Jan. 12, '58	Died, 1881	Curtis

The 5th condemns the recent proceedings in the Federal Court of this District as an "employment of the most disgraceful partisan means," to secure conviction, and as "without a parallel even in the modern history of despotism;" and proposed that a fund be raised by individual subscriptions of one dollar each to be collected and applied by "three commissioners appointed by this assembly to be called *Commissioners of the Liberty Fund*" for the relief of the prisoners.

"6th. That our fellow citizens of Lorain County, who are now in jail \* \* \* are entitled to their liberty, and must have it, peaceably and in conformity with the rules of law;" [and constitutes] "Joshua R. Giddings of Ashtabula County, Herman Canfield, of Medina County, and Robert F. Paine, of Cuyahoga County \* \* \* a Committee to sue out the writ of *habeas corpus* in behalf of said prisoners without unnecessary delay.

"7th. \* \* \* that, stimulated as well by the wrongs and outrages which were the immediate occasion of this vast assemblage, \* \* \* it is the manifest duty of Republicans everywhere to renew their united efforts with an energy not to be remitted until" [every branch of the federal government be restored to the] "pristine purity of *Jeffersonian Republicanism*."

The formal work of the convention having been thus completed, Governor Chase was introduced and received with tremendous cheers. Much depended upon the tone of his remarks. The resolutions adopted were too tame to suit men of the stamp of Giddings and Clay, and some hoped for something more radical from the Chief Magistrate of the State. They were disappointed. With great dignity and soberness he stated:—

"That he had not come to counsel any violence. The American people, having the control of all power by the ballot boxes, it was for them to do it in their legitimate way.

"It was not necessary that we, the sovereigns of the land, should resort to any measures which could not be carried out at all times and under all circumstances. \* \* \* We exist under a State Government and a Federal Government,

and if the Government does wrong, turn it out. Dismiss the unworthy servants and put in those who will do your will."

Speaking of *habeas corpus* proceedings for the release of Bushnell and Langston, then pending before the Supreme Court of the State, he said:—

"If the process for the release of any prisoner should issue from the Courts of the State, he was free to say that so long as Ohio was a Sovereign State, that process *should be executed*.

"We can reform the Judiciary, the Congress and the Administration, and although the process may be too slow to suit some of the more excited of the audience, yet none of them were so old that they might not see the operation of this remedy. He did not counsel revolutionary measures, but when his time came and his duty was plain he, as Governor of Ohio, would meet it as a man.

"His deliberate judgment was that no person could be seized and captured while he was a citizen of any sovereign State, under the Constitution of the United States.

"Let the courts be appealed to, and let them act in accordance with their consciences and their duty between themselves and their God. The great remedy is in the people themselves, at the ballot box. Elect men with back bone who will stand up for their rights, no matter what forces are arrayed against them."

Peter Hitchcock and Columbus Delano being called on, also counseled against violence of any sort. The latter said:—

"We must try law first—law and patience—but with it all, a patience and perseverance that shall never die, for the suppression of wrong. If you have not such a Court as you want, *make* such a court by the ballot box, and your laws will be executed. You are here in solemn, thoughtful, earnest, manly, and solid determination to do right and naught but right. Go on in that course and God will be with you."

John M. Langston, a lawyer practicing in Oberlin, was introduced and said: "He hated the Fugitive Slave Law as he did the Democratic party, with a deep, unalterable hatred." He then went on with a clear, noble, bold utterance of sentiments which were clothed in as eloquent language as is

often heard upon the floors of the halls of Congress. The listeners forgot that he was a black man—he spoke a white language such as few men can speak:—

“If you can’t hate slavery because it oppresses the black man in the Southern States, for God’s sake, hate it for its enslavement of white men. Don’t say it is confined to the South, here it is on our neighbors and citizens. \* \* \* As we love our friends, as we love our God-given rights, as we love our homes, as we love ourselves, as we love our God, let us this afternoon swear eternal enmity to the law. Exhaust the law first, for these men, but if this fail, for God’s sake, fall back upon our own natural rights, and say to the prison walls ‘come down, and set these men at liberty.’”  
[Cheers.]

Asa Mahan, former President of Oberlin College, said he

“liked the Fugitive Slave Law. [sensation] He liked it because it could not be executed; and again because it was political death to the party that originated and executed it.”

The number of persons present upon the square to listen to the speakers was, at the lowest estimate, from ten thousand to twelve thousand. From the speakers’ stand an almost unbroken sea of heads covered the space all over that section of the Park from the fountain to the fences. The trees, fences, windows and steps of the custom house were crowded with interested spectators, the whole forming a congregation equal to several Fourth of July celebrations.

The proceedings were reported at length in the Cleveland Republican papers,<sup>242</sup> and, with more or less fulness, in other city and county newspapers.<sup>243</sup> The importance of the meeting was generally recog-

<sup>242</sup> *Cleveland Leader*, May 25, 1859; *Cleveland Herald*, May 24 and 25, 1859.

<sup>243</sup> *Cincinnati Gazette*, May 26, 1859; *Ohio State Journal*, May 25 and 26, 1859; *Cleveland Plain Dealer*, May 24 and 25, 1859; *Ashtabula Sentinel*, May 26 and June 2, 1859; *Ashtabula Telegraph*, May 28, 1859; *Guernsey Times*, June 2, 1859; *Jeffersonian Democrat*, May 27, 1859; *Independent Democrat*, June 1, 1859; *Norwalk Reflector*, May 31, 1859; *Oberlin Evangelist*, June 8, 1859; *Painesville Telegraph*, May 26, 1859; *Portage County Democrat*, June 1, 1859; *Western Reserve Chronicle*, June 1, 1859.



nized and the speech of Governor Chase, and the resolutions adopted, were generally commended.<sup>244</sup> Some of the more radical papers were not content with their moderate tone and with the slow process recommended for righting recognized wrongs.<sup>245</sup>

<sup>244</sup> The *Cincinnati Gazette* said, May 26, 1859, after quoting from the editorial of the *Ohio State Journal*, "The grounds of all this excitement are, first, an odious statute, very widely deemed unconstitutional in many of its provisions, for the reclamation of runaway slaves on free soil, and secondly an intolerably tyrannical method of enforcing the law, in the particular cases recently arising on the Western Reserve. The Fugitive Slave Law, was, of purpose, made as offensive as possible to the North. It has never done slave-holders any real good, and it never will. \* \* \* But when enforced by federal officials, after the manner Willson, Belden & Co., have chosen to adopt, it cannot fail to awaken intense popular indignation. It ought to do so." [Quoted with approval in *Cleveland Leader*, May 27, 1859.] The *Cleveland Herald*, said, May 25, 1859, "The African Democracy have our sympathy in their disappointment at the result of the doings of the Convention, but it was deemed utterly impossible—even to accommodate them—to tear down a jail, or 'groan' Federal officials. The 'Declaration' adopted by the meeting; the letters read from invited guests; the speeches made by the different orators; the respectability and good behaviour of the mass of thousands collected together under circumstances of Federal oppression and arrogance having no parallel in the history of Ohio, speak for the character of the meeting, the forbearance of the people of the Reserve, and the determination of the Republican party to 'right their wrongs' in a manner consistent with the spirit of our free institutions. \* \* \* The slave States could not present such a gathering of law-abiding men, and let the case be reversed, and not a stone of a jail in a slave State would have remained one upon the other." The *Ohio State Journal* said, May 28, 1859, "The proceedings were pervaded by a spirit of determined resistance to the legal outrage that is being perpetrated against free citizens of Ohio, under the assumed sanction of the Constitution; yet that resistance is to be made effective through the just operation of law, and a resort to the Republican remedy, the ballot box. Never was there a more sublime moral spectacle than that presented by this assemblage of freemen. \* \* \* Amidst all these incentives to violent and extreme action, amidst all these appeals of strong emotion and deep conviction of their wrongs, they looked beyond the impassioned hour, upon the clear future. They saw the ultimate triumph of THE RIGHT; and the sight inspired them with patience and forbearance, while it nerved them with fresh energy and determination." The *Ashtabula Sentinel* said, May 26, 1859, "The best possible order prevailed, though a deep feeling of the wrong that called the people together was manifest. The meeting proved that the people of the Reserve are sound to the core, determined to defend their rights; yet careful of preserving order." The *Oberlin Evangelist* said, June 8, 1859, "The tone and temper of the meeting was fervid, yet considerate, true to freedom, yet true also to good order. The doctrine maintained by the resolutions and by all the speakers is this—*The Fugitive Slave act unconstitutional and void, to be never obeyed, but to be resisted by all legal means until those means shall have been fully exhausted.* Beyond this point no definite action is taken. Evidently the speakers all felt a good degree of confidence that these means would prove effective." See also *Toledo Blade*, May —, 1859; *Norwich (Conn.) Courier*, June —, 1859; *Ashtabula Telegraph*, May 28, 1859; *Independent Democrat*, June 1, 1859; *Norwalk Reflector*, June 7, 1859; *Painesville Telegraph*, May 26, 1859.

<sup>245</sup> The *Portage County Democrat* said, June 1, 1859, "Not many communities, so highly and justly excited by flagrant wrongs, would have refrained from executing summary vengeance upon the authors of so much mischief, would have

One fact, that tended to tranquilize the meeting was that, in pursuance of the policy of first exhausting all legal remedies, an application had been made to the Supreme Court of Ohio for a writ of *habeas corpus* and the release of Simeon Bushnell and Charles H. Langston, who had been sentenced to imprisonment in the Cuyahoga jail, as well as to fines and Court costs. The case had been very ably argued on behalf of the prisoners by Hon. A. G. Riddle and by Christopher P. Wolcott, Attorney General of the State, the latter acting under instructions of Governor Chase. The Government was represented by U. S. District Attorney Belden and by Noah H. Swayne of Columbus, later a Justice of the United States Supreme Court, who submitted the case on their brief. A decision was expected soon. All of the Judges of that Court had been elected as Republicans and were known as anti-slavery men, and there was a general belief, shared by the Democrats, that the Court would grant the writ and discharge the prisoners.<sup>146</sup> The Supreme Court of Wisconsin had granted a similar writ, in the case of *Sherman M. Booth v. U. S. Marshal Ableman*, 3 Wisc. 13, and it is altogether probable that

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refrained from relieving innocent friends from unjust restraint of their personal freedom. But the day of vengeance was postponed. No prisons fell, no Hamans hung. But the day of reckoning will not always tarry."

<sup>146</sup> The *Ohio Statesman* (Dem.) said, May 26, 1859, in anticipation of such a decision,—“And what then? We apprehend the U. S. Marshal will at once take Bushnell and Langston into custody and proceed to carry out the order of the United States District Court. Gov. Chase must then come to the rescue and a collision will at once ensue. \* \* \* The Democratic party of Ohio and all the Union-loving men of other parties will be found on one side, and the treasonable squad of Abolitionists and Disunionists on the other. The law of Congress will be sustained, and the traitors to their country, to law, order and good government, will be overwhelmed.” The *Cleveland Plain Dealer* said, May 21, 1859, “We are prepared to see the Judges, raised into power by their subservience to the treasonable elements of the country, prostitute the sacred authority with which they are invested, to base purposes, to keep in the favor of those to whom they are indebted for their official position.” And May 30, 1859, “If Langston and Bushnell are released, they will be immediately re-arrested by the Marshal of this District, who has gone to Columbus for that purpose. This will bring on the long-dreaded collision of authority, between the State and General Government, and force must meet force, and might make right.”

the Ohio Supreme Court would have discharged the prisoners, except for the fact that the United States Supreme Court had decided in the case of *Prigg v. Pennsylvania*, that the Fugitive Slave Law of 1793 was constitutional, and had, only two months before, reversed the Supreme Court of Wisconsin in the Booth case, holding that no State Court could take a prisoner from the custody of a Marshal, or Sheriff, holding him by orders of a Federal Court, acting under authority of both laws, relating to fugitives from labor.

The decision of the Ohio Supreme Court was announced on May 30, 1859. Three Judges, Swan, Scott and Peck, held that the Fugitive Slave Law, or such portion thereof as the prisoners were charged with violating, was constitutional and that the prisoners must be remanded to the custody of the United States Marshal. Judge Swan delivered the opinion of the Court, but Judge Peck wrote a separate opinion. Judges Brinkerhoff and Sutliff dissented and wrote opinions, the first distinguished by its brevity, and the last by a very elaborate analysis of the Constitution and its spirit based upon contemporary evidence and early decisions of the Courts. The statement of the case, arguments of Counsel, and opinions of the Court occupy 249 pages of Volume 9 of the Ohio State Reports. The decision was naturally very disappointing to the majority of the people on the Western Reserve, but they accepted it as final, and immediately turned their attention to securing through political action what the Courts had denied them.<sup>247</sup>

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<sup>247</sup> The *Cleveland Leader* said, May 31, 1859, "It is the end of the legal controversy at this time. The free people can only take an appeal through the ballot boxes, State and National. This they will do. The struggle between Freedom and Slavery, Liberty and Despotism, is but begun." [Quoted with approval in the *Ashtabula Sentinel*, June 2, 1859.] The *Cleveland Herald* said, "On a question bristling, as this does, with so many difficulties, all should obey the scripture well and be 'slow to speak.' It is too grave a question to be disposed of on street corners and it is one in which, in forming an opinion upon, impulse should have no agency. *Res adjudicata*—the bulwark behind which the profession is so prone

The *Ohio State Journal*, May 31, 1859, expressed the almost universal feeling of Republicans, thus:—  
 “Whatever may be the conflicting popular opinions upon the decision rendered by a majority of the Court, the people of Ohio will doubtless regard it as the deliberate judgment of the highest tribunal of the State and will respect it accordingly.” Wade, Giddings, Langston, and some of the Western Reserve editors could not suppress their ill feeling.<sup>248</sup>  
 The *Cleveland Plain Dealer* took delight in quoting the fiery language of these men before the decision was announced and calling on them to do as they

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to skulk—has, evidently, controlled the majority of the Judges. As an original question it has not been met by the majority, for Judge Brinkerhoff, in his opinion, says, ‘A majority of my brethren, as I understand them, admit that, if this were a new question they would be with me, and they yield the strong leanings of their own minds to the force of the rule of *res adjudicata*!’ \* \* \* Why should our Supreme Court yield the ‘strong leanings of their own minds’ to any other tribunal? \* \* \* The decision of the Federal Supreme Court should not control a State Supreme Court, for each Court is of the highest dignity. The melancholy truth is the majority did not do their own thinking.” And on June 1, 1859, “How can the tyranny of prior decisions be more glaringly shown than by pointing to such able and honest lawyers as Judges Swan and Peck, who bow in obedience to prior decisions which, were the questions original ones, would not receive their assent?” and quote with approval from the opinion of Judge Brinkerhoff, “So surely as the matured conviction of the mass of intelligent mind of this country must ultimately control the operations of the government in all its departments, so surely is this question not settled. When it is settled right, then it will be settled, and not till then.” The *Norwalk Reflector* said, June 7, 1859, “Over the result the ‘nigger driving democracy’ will, of course, exult as they would at the enforcement of any other law that has for its object the crushing out of freedom.

\* \* \* Though the fugitive slave law and the tools who execute it in the most oppressive manner, are odious in the extreme, to every man possessing a single spark of the genuine love of liberty in him, yet the power that makes and moves them must be met and punished; and it will be done, if the Republicans prove true to the cause they have espoused. Thank heaven the ballot-box is left us. Let us stand firm and united then, and in 1860 we shall conquer the combined forces of tories and dough faces.”

<sup>248</sup> The *Summit County Beacon* said, June —, 1859, “A cowardly and miserable sham conservative, speaking through the mouth of Joseph R. Swan, the voice of THREE base, timid, judges has remanded Bushnell and Langston to their illegal imprisonment. Be silent who will, we choose to utter the honest indignation of one freeman in the State. The people of Ohio will REMAND those three Judges to their original and deserved obscurity, made more disreputable because of the opportunities thrown away to achieve a decent judicial fame.” [Quoted in *Cleveland Plain Dealer*, June 3, 1859.] The *Painesville Telegraph* said, June 2, 1859, “We do not censure the judgment of these three men who remanded Bushnell and Langston to prison if it is their conscientious opinion. But God help them in their blindness.”

had threatened;<sup>249</sup> but, again, the Ohio State Journal gave expression to the quiet determination of the masses.<sup>250</sup>

The Republican State Convention was held at Columbus, June 2, 1859, just four days after the decision of the Supreme Court in the *habeas corpus* case. The attendance was larger than at any previous convention. All felt the importance of nominating a strong ticket and building a strong platform. William Dennison was nominated for Governor. He was a most affable man with a charming manner and a fine presence and he had had the double training of a successful lawyer, and a highly successful business man. Probably no better choice

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<sup>249</sup> The *Cleveland Plain Dealer* said, June 3, 1859, "The last Ashtabula Sentinel contains the proceedings of a great banner presentation by the ladies (God bless them) of Ashtabula, to a committee of the 'Sons of Liberty' \* \* \* Among many other revolutionary declarations made by Mr. Wade, we select the following: 'Ladies: I stand before you to-night, to say that those men of Oberlin and Wellington acted just as I should have acted, and will act whenever occasion presents itself. And more—I will seek opportunities to violate the Fugitive Slave Act. \* \* \*

'Ladies and Fellow Citizens: The hour of trial has come. Twenty of our neighbors are in custody, for helping 'John' on to Canada. Now shall we tamely submit in the face of all our boasting and threats? *In the name of God let us be true to our words.* Let us be true to our professions and principles. IF THE SUPREME COURT OF OHIO DOES NOT GRANT THE HABEAS CORPUS, THE PEOPLE OF THE WESTERN RESERVE MUST GRANT IT—*sword in hand if need be.*'

"The Court has refused to release these prisoners and now the Ashtabulians have got to make good their word." And, on June 2, 1859, quoted from Giddings' letter to Ralph Plumb, dated May 6, 1849, "In disregarding this law the prisoners did right. Their error consisted in SPARING THE LIVES OF THE SLAVE CATCHERS. THOSE PIRATES SHOULD HAVE BEEN DELIVERED OVER TO THE COLORED MEN AND CONSIGNED THE DOOM OF PIRATES, WHICH SHOULD HAVE BEEN SPEEDILY EXECUTED." And, on May 31, 1859, "A dispatch from Painesville last evening, says, 'The bells of this city are now tolling on account of the decision of the Supreme Court today at Columbus.' So the end is 'not yet. 'Revolutions' says the *Leader* 'never go backwards.' Well, then, let the Revolution go on. \* \* \* There is a Revolution going on in Italy, another threatened in Hungary \* \* \* There is also a Revolution going on in Mexico, another in Central America, and one prayed for in Cuba. It is a pity that Black Republicans and Red Republicans in this freest of all countries cannot revolt if they choose to do so."

<sup>250</sup> The *Journal* said, June 14, 1859, "The idea that the Republicans of Ohio have sought or intend to seek redress for the palpable wrongs that have grown up under a perversion of law, based upon a misconstruction of the Constitution, in any other way than through the operation of constitutional remedies is absurd. The mass meeting at Cleveland about which so great ado has been made, proposed no other plan of action."

could have been made at this time. William Y. Gholson, of Cincinnati, was nominated for Supreme Court Judge. He was a Mississippian by birth, had inherited slaves, manumitted them and moved to Ohio, where he had made a fine record as a lawyer and as one of the trio of able Judges who first constituted the Superior Court of Cincinnati and gave it a high reputation, extending far beyond the bounds of city and State. The nomination of Judge Swan, who four days before had delivered the opinion of the Court in the *habeas corpus* cases, was urged by his friends contrary to his own judgment. He was complimented by a large vote; but, as he himself foresaw, his nomination was rendered impossible by his decision, which ran counter to the wishes and hopes of the majority of his party. His reputation as lawyer and jurist was of the highest, his character unblemished, and he was personally a lovable man. Under ordinary conditions, his re-nomination would have been a matter of course; but the majority of the delegates present felt that to renominate him then, was equivalent to endorsing his views on the Fugitive Slave Law, which the Republican party had determined to make the principal point of attack.<sup>251</sup> In the light of subse-

<sup>251</sup> The vote stood Gholson 217, Swan, 140 and blank 8. The *Ashtabula Sentinel* said, "Brinkerhoff and Sutliff had ably and nobly maintained the constitutional rights of the people, and the re-nomination of Judge Swan would have been a reproof to those two Judges. \* \* \* Had they submitted to the decision, and re-nominated Swan, the party in Ohio would have disbanded and the old Guard who have for twenty-five years maintained the doctrines of Liberty amid defeat and persecution, would at once have reorganized upon their present doctrines." And again, July 21, 1859, "And if it will be of any satisfaction to the *Statesman*, we will assure it that whether the refusal to discharge Bushnell and Langston worked the defeat of Judge Swan before the Convention or not, it made his defeat certain before the people. Enough of Delegates were very free to say that he could not be elected." \* \* \* "This will be the case with all who concur with him." The *Oberlin Evangelist* said, June 8, 1859, "A supreme judge is to be elected next fall in the place of Judge Swan when the people will be called upon to sustain or reverse this decision." The *Portage County Democrat* said, June 1, 1859, "With the people, under God, is the residuum of power,—with them is the remedy—that remedy is the ballot box—let that remedy be faithfully applied while a reasonable hope is left in that direction. Let Judges Brinkerhoff and Sutliff have an associate worthy of them." See also *Western Reserve Chronicle*, June 22, 1859.

quent events, it may well be said that Judge Swan did more by his unpopular decision, for his party, for his State and for the Union, than any other man in the year 1859.

The Cleveland and Cincinnati papers and Ohio State Journal ignored the real cause of Judge Swan's defeat, and rather attributed it to geographical considerations and dwelt on the undoubted merits of Judge Gholson.<sup>\*\*\*</sup>

Among the resolutions adopted were the following:—

"2. That the people of Ohio demand a reorganization of the Judicial Circuits of the United States, and that they be so constituted as to give every section of the Confederacy its just and equal voice in the Supreme Court of the United States; that provision be made for reviewing the decisions of the District and Circuit Courts of the United States, by appeal or writ of error and for securing fair and impartial juries in prosecutions for alleged violations of the laws of the United States.

"3. That, proclaiming our determination rigidly to respect the constitutional obligations imposed upon the States by the Federal compact, we maintain the Union of the States, the rights of the States, and the liberties of the people; and in order to attain these important ends, *we demand the repeal of the Fugitive Slave Act of 1850*, as subversive of both the rights of the States and the liberties of the people, and as contrary to the plainest duties of humanity and justice, and as abhorrent to the moral sense of the civilized world.

"6. That we regard all suggestions and propositions of every kind, by whomsoever made, for a revival of the African slave trade, as shocking to the moral sentiments of the enlightened portion of mankind; and that any action on the part of the government or people conniving at, or legalizing that horrid and inhuman traffic, would justly subject the government and citizens of the United States to the reproach and execration of all civilized and christian people throughout the world."

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<sup>\*\*\*</sup> The *Cleveland Herald* said, June 3, 1859, "The nomination of Judge Gholson is one of the best that could be made. The location is right; Hamilton County, by its size and the amount of law business, is entitled to one of the five Judges. \* \* \* His nomination will give enthusiasm and satisfaction in the Southwest part of the State, while, under all the late excitements on the Reserve his nomination will ensure him the full Republican vote of the North."

The Democratic party nominated for Governor, Rufus P. Ranney, the strongest candidate they could have named, an able lawyer and debater, and ex-Judge of the Supreme Court, and all the more acceptable with the masses because he had not of late years been at all prominent in politics.<sup>253</sup> The rest of the ticket was comparatively weak, and a blunder was made, when Charles N. Allen, of Cadiz, was nominated for School Commissioner, "an office of all others, requiring mental cultivation, high literary acquirements and talent as an educator. Mr. Allen was a good party man and served well as Deputy U. S. Marshal and juror in a nigger case."<sup>254</sup> He was the man who served on the Bushnell jury while at the same time an officer of the United States Court.

The Democrats tried to make capital out of the refusal of the Republicans to renominate Judge Swan, but the issue was so clearly drawn between the Republican demand that the Fugitive Slave Law should be repealed and the Democratic demand that it should be obeyed, that this side issue cut no figure.<sup>255</sup>

The Democratic platform opposed the revival of the African slave trade, but ignored the fact

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<sup>253</sup> The *Western Reserve Chronicle* said, June 8, 1859, "Our opinion of Judge Ranney is that he possesses more talent than any man belonging to the Democratic party in this State, and that his personal popularity is great and deservedly so. In fact we know of no man belonging to the fugitive law party, whom we should prefer to see in the Gubernatorial Chair."

<sup>254</sup> *Cleveland Herald*, May 27, 1859; *Western Reserve Chronicle*, June 8, 1859.

<sup>255</sup> The *Ohio State Journal* said, June 7, 1859, "For the Columbus Democracy to get up indignation meetings because Judge Swan was not nominated by a Republican convention, when every one of them would have used their worst efforts to defeat him if he had been, and when they have a candidate of their own whom they will persist in running against Judge Swan, in any shape, would be a very cheap style of indignation. \* \* \* But it is said by a few shallow Democrats, who would scalp Judge Swan much sooner than they would vote for him, that the independence of the judiciary is assailed because he was not renominated by the convention in order to sustain his decision on the constitutionality of the fugitive slave law. This truly would be a most singular way of preserving the impartiality of the Judiciary." And on June 8, 1859, "We deny the justice of any claim that a judge should be renominated, or *not* renominated, because of a particular decision."



that it was already open and that offenders were not being punished.<sup>\*\*\*</sup> The 3d Resolution read as follows:—

*“Resolved, That the rendition of fugitive slaves, upon demand of the persons entitled to their services or labor, is a duty imposed on every State of the Union by the terms of the Federal compact; that laws passed by Congress to secure such rendition in 1793 and 1850, ought to be promptly and faithfully executed; and that the leaders of the self-styled Republican party, in Ohio, by a persistent disregard of the Constitution of the United States in this particular, have shown themselves unworthy of the confidence of well disposed, patriotic and peaceable citizens.”*

The 10th, as follows:—

*“Resolved, That we are opposed to conferring upon negroes, mulattoes, or other persons of visible admixture of African blood the right of suffrage, or any other political right, desiring that the laws of Ohio be made, and her destinies controlled, by white men exclusively, and for the paramount interests of the white race.”*

Thus the issue was squarely presented, and the campaign hinged on the question, shall the Fugitive Slave Law be enforced, or repealed. One of the telling arguments in favor of repeal was the fact that fourteen of Ohio's most reputable citizens were still languishing in a Cleveland jail for yielding to a charitable impulse to rescue a negro from the hands of rough men whom they believed to be kidnappers.

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<sup>\*\*\*</sup> *Painesville Telegraph*, June 2, 1859.

THE CAPTORS OF JOHN PRICE INDICTED  
FOR KIDNAPPINGPROSECUTION OF OBERLIN-WELLINGTON  
RESCUERS ABANDONED

But legal remedies had not all been exhausted. Judge Carpenter of the Lorain County Common Pleas Court, had called the attention of his Grand Jury to the Ohio Statute to prevent kidnapping.<sup>257</sup> He said, *inter al.*—

"The misdemeanor here defined, is the claiming of any black or mulatto, within Ohio, whether free or not free, to be a fugitive from service, or labor, and the getting, or attempting to get him out of Ohio before such claim can be legally proved, with intent to enforce the claim.

"The Constitution of Ohio inhibits slavery, and regards all persons as free except criminals. \* \* \* Who then is presumed to be free? Everybody! Every man, woman and child, in Ohio, of whatever birth, descent, parentage, complexion, or conformation, is presumed to be free. \* \* \* In this position \* \* \* I am upheld by the Constitution of this State as well as by that of the United States. Our Bill of Rights begins' Sec. 1. All men are by nature free and independent.' \* \* \* Does any caviller pretend that the words, 'all men' \* \* \* were meant to exclude blacks and mulattoes?"

He then went on to show that, whenever the Constitution was intended to exclude blacks or mulattoes, *e. g.*, from the privilege of voting, or the duty of serving in the militia, the word, "*white*," was used before the words, "male citizens." The necessary inference was that, when such a qualifying word was left out, all persons were included. He then proceeded to show that, admitting for the sake of argument that the Fugitive Slave Law was Constitutional, it was a penal statute and must be strictly construed; that any person claiming its protection, while engaged in seizing and carrying off any resident

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<sup>257</sup> Act of April 17, 1857, Ohio Laws, LIV., 221-2.

of Ohio, must comply strictly with its terms and any defect in the authority under which he claimed to act, would deprive him of the benefit of the law and justify interference on the part of any one suspecting that he was acting illegally. <sup>258</sup>

On February 15th, the Grand Jury, thus charged, returned true bills against *Rufus P. Mitchell*, *Anderson Jennings*, *Jacob K. Lowe*, and *Samuel Davis*, for kidnapping and attempting to carry out of the State, in unlawful manner, a negro boy named *John Price*. <sup>259</sup> A warrant was issued to the Sheriff of Lorain County on the same day and, acting under it, he arrested *Jacob K. Lowe*, at Grafton, April 4, 1859, and the others, at Cleveland, May 11, 1859. <sup>260</sup> A mistake having been made in the first name of *Mitchell*, a new indictment was found against the four, May 17, 1859, *Mitchell* being correctly named, in this, *Richard P.*, and on the same date all were rearrested and released on giving a bail bond in the sum of \$3,200, with *O. S. Wadsworth*, of Wellington, *Joseph L. Whiton*, of Amherst, and *Malachi Warren*, of Oberlin, as sureties. <sup>261</sup> On May 19th, the Judge set the cases for trial on July 6th, next. United States Attorney General *Black* instructed District Attorney *Belden* to defend these men indicted for kidnapping, and he appeared for them on May 19th, an act which called forth more indignant protests. <sup>262</sup>

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<sup>258</sup> This charge was published in the *Medina Gazette*, July —, 1859, and copied from that paper in the *Cleveland Leader*, July 7, 1859.

<sup>259</sup> *Cleveland Leader*, and *Herald*, Feb. 24, 1859; *Painesville Telegraph*, March 3, 1859; *Oberlin Evangelist*, March 16, 1859; *Cleveland Plain Dealer*, March 16, 1859.

<sup>260</sup> *Cleveland Leader*, April 21, 22 and 28; May 13, 14 and 17, 1859; *Cleveland Herald*, April 21 and 25; May 5, 12, and 14, 1859. *Cleveland Plain Dealer*, April 21, 1859; *Independent Democrat*, April 6, and May 18, 1859; *Lorain County Eagle*, May 18 and 25, 1859; *Portage County Democrat*, April 27, 1859; *Western Reserve Chronicle*, April 27, 1859.

<sup>261</sup> *Cleveland Leader*, May 18, 20 and 21, 1859; *Cleveland Herald*, May 18 and 19, 1859; *Cleveland Plain Dealer*, May 20, 1859; *Painesville Telegraph*, May 19, 1859; *Jeffersonian Democrat*, May 27, 1859; *Lorain County Eagle*, May 25, 1859.

<sup>262</sup> The *Cleveland Herald* said, May 16, 1859, "Look at the thing! Jennings comes from Kentucky on a private matter for his employer—a most disgraceful private matter—and gets into difficulty. Why should the United States so prompt-

Were the funds and power of the United States to be employed in defending all men indicted for violating the laws of Ohio? If not, why were man-stealers exalted above all other persons accused of crime?

The defendants were not willing to trust entirely to District Attorney Belden for their defense and engaged R. H. Stanton of Kentucky. D. K. Cartter was engaged to assist the Prosecuting Attorney of Lorain County, W. W. Boynton, afterwards Judge of the Supreme Court of Ohio, and not to be confused with Lewis D. Boynton. It was morally certain that, on the same evidence which was given at Cleveland, a Lorain county Judge and jury would convict all four defendants of kidnapping. The invalidity of both, the warrant given to Lowe and the Power of Attorney given to Jennings, and the lack of resemblance between Bacon's slave John, as described in the latter, and John Price of Oberlin, would have been argued with telling effect before a Court and jury, free from bias in favor of the Administration and the Fugitive Slave Law, and the defendants were unwilling to risk a trial with a possible sentence of from three to eight years at hard labor in the Ohio Penitentiary staring them in the face. \*\*\*

Their Kentucky attorney seeing that his clients had nothing to gain by going to trial, or by further prosecution of the Rescuers, negotiated with Mr. Cartter a settlement of all litigation, by the terms of which, the United States was to enter *nolle prosequi*

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ly rush to his rescue, tendering to him the use of government lawyers and government money in his defence? Is this the parental care that the Government exercises over all private citizens who, in the pursuit of private objects, overstep the bounds of criminal law and find themselves lodged in jail? Or is \* \* \* the business of slave-catching \* \* \* of such a character as to entitle its followers, above all other men, to the care and protection of our government?" See also *Cleveland Plain Dealer*, May 11, 1859; *Cleveland Leader*, May 20, 1859; *Ashabula Sentinel*, May 19, 1859; *Ohio State Journal*, May 19, 1859; *Ashabula Telegraph*, May 14 and 21, 1859; *Norwalk Reflector*, May 24, 1859; and *Independent Democrat*, May 25 and July 20, 1859.

\*\*\* *Cleveland Leader*, July 6, 1859; *Cleveland Herald*, July 5 and 6, 1859; *Ohio State Journal*, July 8, 1859; *Independent Democrat*, July 13, 1859.

in all the remaining cases against the Rescuers and the Prosecuting Attorney of Lorain County was to do the same in the kidnapping cases. Belden, at first, refused to agree. He had sworn to "put Oberlin through" and was intending to do so, cost what it might. But on an intimation from Stanton that if he persisted, his Kentucky witnesses would probably be *non est inventus*, when the next case was called in Cleveland, he yielded, on condition that a statement and correspondence should be framed up showing that he had nothing to do with the negotiations and only consented at the earnest solicitation of his witnesses. On July 5th, 1859, the papers were all drawn up and signed. The District Attorney nollied the remaining cases against the Rescuers and the Kidnapping cases were dismissed. So ended what at the beginning had been trumpeted in the Plain Dealer as "THE FIRST SIEGE OF OBERLIN."<sup>104</sup>

The Democratic papers made loud moan over what they called "compounding of felony," a betrayal of his trust on the part of Belden, a failure of duty, etc.; but consoled themselves with the thought that the Rescuers had been punished as much by their eighty-five days imprisonment in the Cleveland jail as if they had been duly convicted and sentenced.<sup>105</sup>

<sup>104</sup> *Cleveland Herald*, and *Plain Dealer*, July 6, 7 and 8, 1859; *Cleveland Leader*, July 7 and 11, 1859; *Ohio State Journal*, July 7, 8 and 9, 1859; *Independent Democrat*, July 6 and 13, 1859; *Portage Sentinel*, July 7, 1859; *Ashtabula Telegraph*, July 9, 1859; *Springfield (Mass.) Republican*, July —, 1859; *Portage County Democrat*, July 13, 1859; *Painesville Telegraph*, July 14, 1859; *Western Reserve Chronicle*, July 13, 1859; *Oberlin Evangelist*, July 20, 1859.

<sup>105</sup> The *Cleveland Plain Dealer* said, July 6, 1859, "So the Government has been beaten at last, with law, justice, and facts all on its side, and Oberlin, with its rebellious Higher Law creed is triumphant. The precedent is a bad one." The *Portage Sentinel* (Dem.) said July 7, 1859, "We regret to learn, as we do from the Cleveland papers of last night, that U. S. Attorney Belden has nollied the indictments against the Oberlin Rescuers now in jail, on condition that the Oberlinites will nollie the indictments against the Kentucky witnesses who were arrested on a charge of kidnapping. This arrangement, which was made at the solicitation of the witnesses, is in very bad taste and unbecoming a Federal Officer." The *Mt. Vernon Banner* (Dem.) said, July —, 1859, "This arrangement, or compromise, we regard as nothing better than a disgraceful compounding of felony." [Quoted

The Republican papers exulted in the final triumph of the Rescuers, condemned anew the whole proceedings, and predicted that never again would there be an attempt to enforce this odious and inhuman law.<sup>266</sup> Before leaving the jail, after

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in *Independent Democrat*, July 20, 1859.] The *Lorain County Eagle* (Dem.) said, July 13, 1859, "The Republicans are making some very silly attempts to convince *somebody* that the Oberlinites have achieved a great triumph, and that the Government has 'backed down,' or something. \* \* \* The law was enforced, Bushnell and Langston were tried, convicted and imprisoned. Thus far the triumph seemed to be altogether with the Government. \* \* \* The Government has succeeded in punishing them all in the same degree as far as imprisonment is concerned and it is safe to conclude that such a miserable set of hair-brained fanatics have nothing to pay fines with \* \* \* Then where is the backing down?"

<sup>266</sup> The *Cleveland Herald* said, July 6, 1859, "All this shows the virtue of self respect. The State of Ohio had rights and Lorain county was determined that these rights should be respected. This has put an end to nigger-ctaching in Northern Ohio. \* \* \* It is exceedingly fortunate, we think, for all concerned, that the Kentucky men brought on their own counsel who had no axe to grind save the cause of his clients and who was unseduced by Federal pap, or unawed by Federal frowns." The *Cleveland Leader* said, July 7, 1859, "Never were a set of men worse used than have been Jennings, Bacon and Mitchell, the Kentucky slave owner and slave-catchers who tried to seize a negro in Oberlin, by the Government officials who sought to make a good thing out of it for themselves and for Democracy. The prosecutions were commenced without the knowledge or consent of those who claimed to have a running interest in 'John,' and they have been obliged to leave their homes repeatedly at the call of these officials, for the purpose of working the conviction of the objects of their political hatred and unrelenting prosecution. \* \* \* these same valorous officials, who had been to Washington for orders and had pledged themselves to carry them out, are seen the day before the Court opens at Elyria, making the proposition to 'cry quits;'—to take back all their threats, and enter nollies against some twenty Lorain citizens, if by that means they could get their Kentucky friends out of the scrape and themselves too." The *Springfield (Mass.) Republican* said, July 7, 1859, "But what becomes of the sacredness of the fugitive slave law and the safety of the Union, in the presence of such a humiliating surrender of the lower law as this? \* \* \* So ends the famous rescue cases and it may be safely set down as a fixed fact that they are the last of the sort in Ohio. The persecution of Christian men for showing kindness to runaway negroes is a losing operation socially and politically." [Quoted in *Ashtabula Telegraph*, July 9, 1859.] The *Portage County Democrat* said, July 13, 1859, "These suits were instituted and prosecuted from the beginning with a spirit that would not damage the reputation of the Evil one for *Devilishness*—and that they are abandoned now says plainly and beyond the point of controversy, that the aim designed to be accomplished has been defeated. The Democratic party have sunk capital instead of making it, the Federal officers have covered themselves with infamy and disgrace, instead of being able to enforce the infamous enactment they sought to do, on the Western Reserve. Instead of getting money out of the persecuted, the United States foots the bills." The *Painesville Telegraph* said, July 28, 1859, "The trial of the Oberlin Rescuers has done more than anything that has ever before transpired in this part of Ohio to inform the people upon the subject of State Rights and Federal encroachments; and the men who have suffered in purse and person, to disseminate that information should be sustained by us."

their discharge the Rescuers passed Resolutions thanking the Sheriff of Cuyahoga county, and Jailer Smith and his family for the kindness which had mitigated their troubles, and to the Attorneys who had nobly defended their cause and to the friends, far and near who by prayer and act had remembered them, and to the Press "which has given us constant and valuable aid." They further "*Resolved*,

"That after all the pains and penalties inflicted upon us by Government officials in the attempt to enforce the fugitive Slave Act, we feel it to be our duty to say that our hatred and opposition to that unjust and unconstitutional law are more intense than ever before.

"No fine or imprisonment however enforced, by whatever Court, can induce us to yield it obedience. We will hereafter, as we have heretofore, help the panting fugitive to escape from those who would enslave him, whatever may be the authority under which they may act."

They then presented the wives of the Attorneys, the Sheriff and the Jailor, with some beautiful pieces of silver and Mr. Plumb, speaking for the prisoners, "requested them to place the gifts before their husbands, at meals, three times a day while they lived, that they might at such times, when surrounded by their families and those dear to them, when noble and generous feelings were sure to come, look upon the mementoes and remember the exciting scenes through which they had just passed."

The prisoners were not allowed to depart unnoticed and unattended. In the afternoon, about 5 o'clock, a hundred guns were fired, and several hundred citizens of Cleveland gathered at the jail to escort the Rescuers to the depot. At half past five, the whole company, headed by Hecker's Band, marched two and two, to the depot through Superior and Water Streets. As the train started, the Band played that appropriate air, "Home, Sweet Home." 267

At Oberlin the entire town was out to greet

them; Professor Monroe welcomed them in an appropriate speech and then, headed by the Oberlin Band, the Fire Company and the Hook & Ladder Company in uniform, all marched to the First Church where the return of the martyrs was celebrated with prayers and thanksgiving, music by the choir of 150 voices and speeches by the venerable Father Keep on behalf of the home folks, and by Ralph Plumb, Professor Peck and James M. Fitch on behalf of the Rescuers. Then others from Cleveland, Elyria and Wellington spoke and the vast audience did not adjourn until midnight.\*\*\*

The last and crowning ovation to the Rescuers came off on Monday, July 11th, when Bushnell, having completed his term, was released from imprisonment. As the hour approached for his departure an immense crowd gathered in and about the jail to see him off. A procession was formed, headed by a guard of colored men, followed by Hecker's Band and a long line of friends on foot, a carriage in which Bushnell and his baggage were placed and then a long line of carriages. The Cleveland Artillery Company preceded him to Oberlin and saluted him on arrival with a hundred guns. Another procession, more music, more speeches, prayers and thanksgiving. The procession was enlivened by the Hecker Band, of Cleveland, the Wellington Band, the Elyria Band and the Oberlin Band, the Cleveland Artillery Company, the Oberlin Fire Company, and the Hook and Ladder Company, all in uniform. The First Church was again filled with an enthusiastic audience, speeches were made by Prof. Monroe, Ralph Plumb, Joshua R. Giddings, D. K. Cartter, A. G. Riddle and R. P. Spalding, of Cleveland, Mr. Goodwin, of Sandusky, Professor James Fairchild and John M. Langston.

The feature of these public exercises which

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\*\*\* *Cleveland Leader*, July 8, 1859.



most impressed visitors was the noble choir of 150 voices. Cleveland, Sandusky, Elyria and Wellington had their Bands. Speakers could be heard everywhere during political campaigns, although the one who made the most eloquent speech at Oberlin had been but seldom heard elsewhere before that day. But there was no body of singers anywhere in the State, with the possible exception of Cincinnati, which could compare with the Oberlin choir in freshness and volume of sound and in the finish and effect of its singing. Music had been a specialty in Oberlin from the time when Charles G. Finney first went there in 1834 and insisted that one of the eight professorships should be devoted to Sacred Music. Professor George N. Allen was appointed to fill that chair. Reporters from the *Cleveland Leader*, and *Herald*, had been in Oberlin before and knew something of the good things to be seen and heard, there; but reporters from the *Plain Dealer* and *National Democrat* were there for the first time, and it is interesting to note how greatly they were impressed. The more so, as they went to Oberlin strongly prejudiced against the place and the people.<sup>269</sup>

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<sup>269</sup> The *Cleveland Leader* said, July 12, 1859, "Of all the features of the day, there was nothing that was of more interest than the singing by the vast and well trainted choir. It was without exception the most grand and glorious singing—the nearest to our conception of a grand choral harmony of anything we ever heard. A lady remarked to us on the homeward passage, that she 'didn't believe we would hear better singing in the other world.' We do believe there is no choir like that one in the country. No words, no language can express the beauty and sublimity of the execution of the Marseilles Hymn, or [Professor Allen's] 'Gathering of the Free,' and so will not attempt it. It was beyond all praise." The *National Democrat* (both editors being present), said, July 12, 1859: "They [the Oberlin people] said their meeting pleased them—it certainly pleased us and we felt it was good for us to be there. The choir, composed of near two hundred persons, sang the Marseilles with thrilling effect—better, far better than we ever heard it or anything else sung." The *Cleveland Plain Dealer* said, July 12, 1859, "John Langston, the colored man and brother of Charles who was convicted, was the most eloquent speaker of the occasion. \* \* \* But the dessert of the feast, which we purposely reserve to speak of last, was the Choir, led by C. H. Churchill, Esq. Talk of Sontag and her supporters, or Piccolomini, or Jenny Lind, or Strakosch, we have heard them all with stoic composure, but yesterday we surrendered at discretion on hearing the first piece." [The Gathering of the Free] by the choir. We pondered long on how we could get the piece

During the campaign, the Republican papers and speakers called attention to the record of Judge Ranney with reference to the Fugitive Slave Law, made in 1850 and 1852, and used his speech at Canfield, in October, 1850, and his letter to Judge Hoffman in 1852, as campaign documents.<sup>270</sup> Democratic newspapers and orators, on the other hand, pointed to the record of Mr. Dennison when as a delegate to a Whig State Convention and as a member of the State Legislature, in 1852, he voted, with his party, that the Compromise measures, including the Fugitive Slave Law, should be accepted as a final settlement of the slavery question and be rigidly enforced.<sup>271</sup>

Ranney was rather helped than hurt by this reference to his past history. His old associates

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repeated for we were sure they could sing nothing else that way. At length, solitary and alone, in the midst of the Choir a beautiful lady arose and struck the glorious Marseilles \* \* \* and when she approached the chorus the whole galaxy of stars arose and sang together. Well, this sent us kiting to France, so that we hardly knew how the song ended. When we got back we distinctly recollect our resolution that if we ever went to Oberlin again it would be to hear the choir." The *Cleveland Herald* said, July 12, 1859, "The choir then sang the Marseilles Hymn. The solo was performed by Miss Church, who has one of the richest and most exquisite voices that ever came from human lips. Standing alone she sang until the burst of 'To arms, to Arms,' when the whole choir rose as one person, giving the Hymn an effect that at the head of the Franco-Sardinian army would lead that army over the walls of every city of the 'Historic Square.' The music by this choir was a treat seldom enjoyed, but never, when enjoyed, forgotten \* \* \* and as we saw a number of the devotees of the Federal Administration wrapped in admiration at the music, we mentally exclaimed 'Music hath charms to sooth a savage.' " The *Independent Democrat* said, July 13, 1859, "Not less than five thousand citizens of Lorain were on the ground, \* \* \* No language is adequate to describe the enthusiasm which prevailed, and the cheers which greeted the eloquent orators fairly shook the walls of the old Church." The *Oberlin Evangelist* said, July 1859, "Once more, organ peals and song joined the universal joy, and perhaps the celebrated Oberlin Choir never before won such laurels as it did while rendering the classic 'Marseilles' and the piece entitled 'Gathering of the Free.'" The *Ashabula Sentinel* said, July 14, 1859, "Mr. Giddings, who attended by special invitation, informs us that it was one of the occasions to be spoken of but not described."

<sup>270</sup> *Supra*, pp. 97 to 99 incl., 102.

<sup>271</sup> The *Cleveland Plain Dealer* said, June 30, 1859, "In '52 Mr. Dennison said that the Fugitive Slave act was essential to the 'integrity of the Union.' In '59 he says 'it is abhorrent to the moral sense of the civilized world.' When a man ceases to be consistent he ceases to be honest." But see *Plain Dealer* in 1850. *Supra* pp. 102 to 104 incl. and *Cleveland Leader*, July 6, 1859; *Painesville Telegraph*, June 9, 1859.

and acquaintances in the Reserve, felt that, regardless of the platform on which he stood, Ranney, himself, was at heart opposed to the Fugitive Slave Law and its most odious features. Indeed, he said, when twitted with his apparent inconsistency, that if he were in Congress he would vote to eliminate all such features and to so amend the law as to provide for a trial of the right of property in an alleged fugitive from slavery by a Court and jury of the District in which he resided and, to secure that, would grant him the constitutional right of every free person, the benefit of a writ of *habeas corpus*. Dennison suffered more, because the Republican party was composed largely of Whigs who bolted their party in 1852, because of its endorsement of the Fugitive Slave law. Such persons could not heartily support one who had compromised at that time, no matter what his opinions might be at the present. Ranney ran ahead of his ticket and Dennison ran behind, as a result of this comparison of records. The vote on Lieutenant Governor, which was a true measure of party strength, as distinguished from individual, showed a Republican majority of 14,747. Dennison's majority was 13,236, but he polled 23,925 more votes than Governor Chase did two years before.

Nominations for the Legislature were made with great care, as the election of a United States Senator to succeed George E. Pugh, would devolve upon it. The people of the Western Reserve cared more about this than they did about the governorship. They sent to the Senate such old and experienced veterans and such sturdy opponents to slavery extension as John F. Morse, of Painesville, who in connection with Townshend had forced the repeal of the Black Laws and the election of Salmon P. Chase to the U. S. Senate in 1849, Francis D. Parish, of Sandusky, the victim of the Fugitive

Slave Law in the case of Driskell v. Parish,<sup>111</sup> and Prof. James Monroe of Oberlin, who had served several terms in the House of Representatives. To these were added two young men, J. D. Cox, of Warren, and James A. Garfield, of Hiram, neither of whom were candidates for the position and neither of whom had had any legislative experience.

Jacob D. Cox was but thirty years old when elected Senator to represent the Trumbull and Mahoning District. He was a graduate of Oberlin College; went to Warren as Superintendent of the Public Schools in the fall of 1851; and began the practice of law in 1853, first as a partner of M. D. Leggett, and then as a partner of John Hutchins, who was elected to Congress in the fall of 1858. Mr. Cox had been active as a stump speaker in the Presidential campaign of 1856, and the Congressional campaign of 1858, and the people of Ashtabula and Mahoning counties, as well as Trumbull, had become well acquainted with him as a speaker and as a man. Upon his election as Congressman, Mr. Hutchins retired from active practice, and Mr. Cox was engaged in 1859 in establishing for himself a leading position at a bar, which embraced such lawyers as Matthew Birchard and Milton Sutliff, ex-Judges of the Supreme Court, Ezra B. Taylor, Frank Hutchins, and Joel W. Tyler. He had, as junior partners, Robert B. Ratliff, and William T. Spear, afterwards Common Pleas Judge and for twenty-seven years Judge of the Supreme Court of Ohio. He had no thought of entering politics as a candidate for any office, and had declined to allow his name to be mentioned in connection with the Senatorship. The Republican Senatorial Convention was held at Niles, August 22, 1859. Six candidates were formally presented—Samuel Quinby, Levi Sutliff, George F. Brown,

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<sup>111</sup> *Supra*, pp. 110 to 112 incl.

Charles W. Smith, Jesse Baldwin and Cyrus Bosworth, but, on the first ballot, seven delegates from Mahoning County voted for J. D. Cox, and on the third, he was nominated by a majority of 19 over all. Niles is only about five miles from Warren, and Mr. Spear, who was attending the Convention, drove rapidly to Mr. Cox's house in Warren and said, "Mr. Cox, you are wanted at Niles, right away," and they were well on their way there, before Mr. Cox knew why he was wanted. <sup>273</sup>

James A. Garfield was a graduate of Williams College (class of 1856) and returning to Hiram was elected teacher of Ancient Languages in, and two years later, President of, the Western Reserve Eclectic Institute, at that place. He, too, had no thought of entering public life and was not a candidate for any office.

Lyman W. Hall, editor of the Portage County Democrat, received the support of most of the Portage County men, but could not be nominated without help from Summit County which had candidates of its own. After several ballots without result, Mr. Hall asked his supporters to throw

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<sup>273</sup> The *Western Reserve Chronicle*, Aug. 24, 1859, reported the proceedings of the convention with the details of the balloting and the editor said: "The nomination of J. D. Cox, Esq., as the Republican candidate for State Senator has taken both the people and nominee somewhat by surprise. He has reason to feel highly flattered by this testimonial of the estimate in which he is held by the people of this District, for it was the spontaneous act of the delegates, themselves, without any solicitation whatever on his part, or that of his friends. He had refused some weeks since, to permit his name to be used by the press in connection with the office, on account of his private business, (which must suffer by his nomination) and the matter was supposed to be at an end. \* \* \* Mr. Cox is comparatively a young man, but he has well and fairly earned a popularity second to that of no man in this District. \* \* \* A finished scholar, an eloquent orator, well versed in the political history of the country, a ready debater, with wit as keen and trenchant as a Toledo blade; of indefatigable industry, quick and accurate in the transaction of business, and last but not least, a true Republican—ever ready to labor for the cause, he cannot fail to add strength to the ticket. The *Cleveland Herald* said, August 25, 1859, "The Senatorial Convention to nominate a Republican candidate for Senator to represent the District composed of Trumbull and Mahoning counties assembled at Niles on the 22d inst., and nominated J. Dolson Cox, of Warren. Mr. Cox is a young man and was a hearty and sincere member of the *Old Whig* Party. He is very popular wherever known, and will be elected by a large majority." See also *Cleveland Leader*, August 24, 1859.

their vote to a dark horse, James A. Garfield, who had attracted his attention as a public speaker and won his favor as a man. While Mr. Garfield had not been prominent in politics he had actively canvassed Portage and the adjoining counties of Trumbull, Summit, Ashtabula, Geauga and Lake, in the interests of his "Institute," had preached in most of the Disciple Churches in those counties, had addressed Teachers' Institutes and other gatherings on various subjects, and had thus become comparatively well known. He had then, as later in life, the gift of presenting any subject he chose to discuss in a most interesting way, riveting the attention of an audience and leaving a lasting impression.<sup>274</sup> The delegates gladly welcomed the suggested way of ending the dead-lock and Garfield was started on his eventful career. These two young men had become firm friends before either was nominated for the Senate and they roomed together during the sessions of the Legislature.

To the lower House the Reserve sent such veterans as Peter Hitchcock and Richard C. Parsons, the latter being elected Speaker.

The Republicans secured a majority of 15 in the Senate and of 12 in the House of Representatives, and elected Salmon P. Chase as United States Senator, to succeed George E. Pugh as the associate of Ben Wade. This may be considered as the direct result of the Democratic effort to enforce the Fugitive Slave Law in Ohio, and the revelation of all its

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<sup>274</sup> The author heard Mr. Garfield preach at the Church of the Disciples, Warren, O., in the summer of 1858, taking for his text the first verse of the first chapter of St. John. Although he remembers nothing of any sermon he heard before this, he has retained to the present day, a vivid impression of Mr. Garfield's manner of speaking and line of argument. The *Cleveland Herald* said, Aug. 25, 1859, "The Republicans of the Ohio Senatorial District, comprising Portage and Summit Counties, have nominated Prof. J. A. Garfield, President of the Western Reserve Eclectic Institute at Hiram, as a candidate for Senator. No better nomination could have been made. Mr. Garfield is a live man, and his intelligence and progressive character will secure him a prominent position in the Senate."

enormities, through six months of persistent nagging of the Oberlin-Wellington Rescuers. Cincinnati was, as usual, apprehensive of losing its Kentucky and Southern trade and Hamilton County sent a solid Democratic delegation to the Legislature. Southern Ohio, generally, was lukewarm, but the northern counties were almost unanimous in their endorsement of the Republican candidates and Platform.

The delegation from the Western Reserve remained firmly opposed to making further concessions of any sort to the slave-power.

While peace commissions from the several States had been appointed, on the invitation of Virginia, to meet similar commissioners from the South and were discussing more "Compromise Measures" with a view to placating slaveholders and preserving the Union, the young Senators, Cox and Garfield, were preparing themselves for the war which they felt was inevitable. Their evenings during the winter of 1860-61 were spent in the study of army regulations, infantry tactics and the great works on military strategy with their maps and plans of battle. Both believed that the limit of endurance, under the aggressions of the Slave-Power had been reached; that unless slavery was to be completely nationalized and protected, not merely in the territories but in the free States, a stop must be put to its further extension either by legislation or judicial interpretation; that the slave-trade in Africa must not be reopened and that slave-hunting in Ohio must be closed; that no more slave territory should be acquired; that the Fugitive Slave Law must be so modified as to allow any resident of a free State, claimed as a slave, the right to a trial by jury, and, if deprived of his liberty without such trial, the right to a writ of *habeas corpus* to bring him and his claim to be a freeman before a proper court in the District where he resided or was seized. Both believed that the campaign just closed had awak-

ened the people to the necessity for sturdy resistance to any further aggressions. During the fall and winter of 1860-61, both perceived the growing resentment among the people, of all parties and all stations in life, at the secession of State after State and the seizures by State militia of forts, arsenals, custom houses, mints, etc., belonging to the United States, and both believed that an act of war, which could not be misunderstood or explained away, would be regarded as a call to arms and would meet with ready and enthusiastic response. Such an act of war was the firing on Fort Sumter and the response was instantaneous. Cox was commissioned as a Brigadier General and Garfield as Lieutenant Colonel of the 42d Ohio, and both displayed military ability of a high order and attained the rank of Major General. But their subsequent history does not belong to this paper. It is doubtful if either would have entered public service, and it is certain that neither would have entered the military service, except for the attempts to enforce the Fugitive Slave Law in the Western Reserve in the fall of 1858 and the year 1859.

### POSTSCRIPT.

Sixty years have elapsed since the events described in the above paper. The progress of time enables us to make a more dispassionate, and, probably more correct, view of the things said and done, than was possible at the time. The anti-slavery man, when he found the Administration, Congress, the Law, and the Courts all against him and against what he believed to be right, was forced to exclaim "O miserable man that I am, who shall deliver me from the body of this death?" It is not surprising that he proposed desperate remedies and sometimes took the wrong course in trying to find a way out of his difficulties. Unless we can put ourselves in their place, we can hardly under-



stand how men of the Western Reserve could ever believe or assert that each man, or each community, was to judge for himself, or itself, whether a law was constitutional or not, and obey it, or refuse obedience, accordingly. That was the direct road to anarchy. We can hardly understand how any men—much less lawyers—could expect the Supreme Court of Ohio to reverse the Supreme Court of the United States, on a question of the Constitutionality of a law passed by Congress, or how they could expect a State Court to take from the prison a man convicted and sentenced to imprisonment by a District Court of the United States for violating a law of the United States. That road, followed a little further, would have led to judicial chaos and contempt for all Courts. How could they have ignored the plain provisions of the Constitution, that “the laws of the United States which shall be made in Pursuance thereof \* \* \* shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby anything in the Constitution of Laws of any State to the Contrary notwithstanding;” that Congress shall have power “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing powers and *all other Powers vested by* this Constitution in the Government of the United States or in any Department or officer thereof;” and that “The Judicial Power” of United States Courts “shall extend to *all cases* in law and equity arising under this Constitution, the laws of the United States” etc., and “between citizens of different States,” *e. g.*, Kentucky slave-catchers and Ohio Rescuers? How could they have overlooked the fact that the government, the legislature and the Courts of the United States are *ours*, as well as the government, the legislature and the courts of Ohio? All may be changed from time to time, for better or for worse.

How could they have adopted the Virginia and Kentucky Resolutions of 1798-'99 and the South Carolina doctrine of Nullification, which could only lead to early disintegration and disunion? How could they have thought it possible—granting that such a course was desirable—for the State of Ohio with a poorly organized militia and without arms and equipment, to challenge the United States to an armed contest over the custody of prisoners committed to jail by one of its Courts? The United States then had a standing army well equipped and largely officered by Southern men under the command of a Southern Secretary of War. How long would it have taken Robert E. Lee and Joe Johnston, with two brigades of infantry, two regiments of cavalry and two batteries of artillery to have dispersed Giddings' "Sons of Liberty" and any other force which Governor Chase could have mustered? Ohio could not count on the assistance or even the sympathy of any other State in the Union, and—what was still worse—a majority of her own people would have been found opposed to the violence and disturbance of the peace, occasioned by what they would surely have regarded as the aggressive and irresponsible action of fanatics and men of one idea. There were indications that Democratic partisans would have welcomed an outbreak which would have called for the interposition of the Federal power. The result of such a contest—if initiated by volunteers or State militia—would almost surely have strengthened the Administration and established complete control of the Government, in all its branches by the slave-power, who could then have carried out their entire program in the United States and avoided the resort to secession. If Judge Swan had joined Judges Brinkerhoff and Sutliff, and the Supreme Court of Ohio had ordered the release of Bushnell and Langston, Governor Chase would either have had to use force and thus bring on a conflict with the United States, or would

have been obliged to back down. In either case, the State would have suffered and the prestige of the Republican party would have been damaged beyond repair. It would have been impossible then for that party, or any other formed on similar lines, to have commanded any large following and made successful opposition to a victorious and exultant slaveocracy. Judge Swan by his decision saved his State from humiliation, his party from ruin, and his country from the chains of an oppressive oligarchy which it was just beginning to loosen and was destined to cast off. Even those who rejected him as unworthy to be a Judge of our Supreme Court, must have rejoiced, later, that Judge Swan spoke "the words of truth and soberness," and that the odium of inaugurating civil war in this country was cast upon the South, when his advice was followed:—

"The sense of justice of the people of Ohio has been shocked by some of the unjust provisions of the fugitive acts. It is not the authority of Congress to legislate that they deny, but it is the abuse of the power. That abuse may be remedied by Congress, and if the power to legislate is denied, the question can be put an end to by repeal—it is the only constitutional mode left; the other alternative is intestine war and resistance of our national government.

"All must admit that the owner of escaped slaves is entitled to their reclamation. Good faith to sister States demands it; and there would be no resistance in Ohio to a fair and just law effecting that object. No intense public feeling could be excited upon the question as to who should legislate, Congress or the States, if a proper law were passed by Congress.

*"I must refuse the experiment of initiating disorder and governmental collision, to establish order and even-handed justice."*<sup>275</sup>

But, while we may criticise the various methods for curing the evils inherent in the Fugitive Slave Law of 1850, we cannot fail to see the force of their objections to the law itself and to the manner of its

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<sup>275</sup> 9 Ohio State Reports, 198. The italics are mine.

enforcement. We wonder how any set of men of Anglo-Saxon descent could have conceived and enacted such an unfair, unjust and inhuman law. Was there no man in that Congressional majority capable of putting himself in the place of a colored resident of a free State, liable at any time to be captured and reduced to slavery on a false affidavit of ownership? Was there no man who thought it unjust to deprive a man of the right to testify in his own behalf on a question involving his personal liberty? Was there no man who thought it unfair to take a man hundreds of miles away from neighbors, who had known him for years, before allowing any inquiry as to his status in life? Was there no man who thought it important that a man, denying that he was the slave of another, should have the right of a trial before a Court and Jury? Was there among them any man who, if jailed on an insufficient warrant, would not have sued out a writ of *habeas corpus*, in order to secure his release? It is almost inconceivable. Not one of that Congressional majority would have submitted, without a fight, to such treatment and disregard of his natural rights, as was prescribed by the Fugitive Slave Law. Not one of that majority would have suffered one of his friends to be so treated if he could possibly prevent it. The trouble was that pro-slavery men were so accustomed to seeing blacks and mulattoes treated as brutes, that they could not conceive of them as *men*, or entitled to the rights of *men*.

The pro-slavery Justices of the United States Supreme Court were blinded in the same way, and so placed a false construction on the Constitution of the United States, converting it into an instrument of oppression which it was never intended to be. They denied to the colored man the rights which the Constitution, properly construed, secured to all men.

In their eagerness, and supposed ability, to settle agitation of the slavery question, the Justices of that court departed from the rule, of answering only such questions as were essential to a disposition of the case before them, and discussed every question, social, political and moral, which ingenious counsel might raise in the course of an argument, and they could raise a good many in the course of the eight days (including hearing and rehearing) allowed for argument in the Dred Scott case. In that case, it was necessary to decide only one question. Was Dred Scott, the plaintiff, entitled to maintain an action in the United States Circuit Court for Missouri against Sandford, the defendant, a citizen of New York? He sued as a citizen of Missouri, under Article III, Sec. 2, of the Constitution which provides that "The Judicial powers shall extend to \* \* \* controversies between \* \* \* *citizens of different States.*" If Scott was a citizen of Missouri and Sandford was a citizen of New York, the Court had jurisdiction. If Scott was not, as he claimed, a citizen of Missouri, the Court could do nothing but dismiss his action for want of jurisdiction. There was an agreed statement of facts, covering less than a page of the reports, from which it appeared that Scott and his wife and two children were residents of Missouri, but were held there as slaves, under the laws of Missouri, by an army surgeon who sold them to Sandford just before the suit was filed. The Court below charged the jury "that upon the facts in this case, the law is with the defendant" and thereupon the jury found the defendant "not guilty," and made a special finding that the plaintiff, his wife and children were "negro slaves, the property of the defendant." Under the laws of Missouri a slave was not a "citizen" of that State; therefore, the United States Court did not have jurisdiction, and the case should have been dismissed. But counsel argued, and the Chief Jus-

tice and most of the Associate Justices discussed, all sorts of questions which were irrelevant and immaterial, if the Court had no power to try the case, such as the *status* of the negro in all ages and countries; the fact that he had always been regarded by the whites as an inferior being; questions, whether or not a free negro could become a citizen of the United States; whether or not, if he could become a citizen of one of the States under the laws thereof, he would be entitled to the benefit of Article IV, Sec. 2 of the Constitution, "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States;" the horror with which the people of a slave State would regard the presence of a free negro, citizen of another State, etc., etc., for 240 pages of the report. A majority of the Court decided, not merely that Dred Scott, under the agreed statement of facts and the special verdict of the jury, was not a citizen of Missouri and therefore his suit must be dismissed, but, that free negroes were not and never could become citizens of the United States; that he must be not merely a citizen of a State but a citizen of the United States, in order to entitle him to maintain his action; that the rights and privileges conferred by the Constitution did not and never could apply to free negroes; that the Constitution expressly affirms the right of *property* in slaves; that slaveholders could go into and remain in any territory of the United States, taking their slave *property* with them; that the Act known as the "Missouri Compromise," of 1820, was unconstitutional and void, etc.—in fact deciding, in advance of any case before them requiring such a decision, that every claim made by Southern slave-holders looking to the extension of their "peculiar institution," and all of the objectionable features of the Fugitive Slave Law were Constitutional and "righteous altogether." And from the time that decision was

announced, Senators and Representatives from the Southern States and pro-slavery Democrats in the North, insisted that these *obiter dicta* were a part of the law of the land and must be respected by all!

Now, there is not a word in the Constitution that limits citizenship of the United States to *white* persons; or that prescribes the qualifications of citizenship in the several States. There is not a word that limits the privileges and immunities of citizens in the several States to *white* citizens of another State. There is not a word in the Constitution, or the first twelve amendments, which limits the rights of a trial by jury and of *habeas corpus*, to citizens of the United States, either white or black. The word "person," is used sixteen times in the Constitution and nine times in the first twelve amendments. The "persons" mentioned in Article 1, Section 2, may be black or white, bond or free. When enumerated for the purposes of representation and direct taxation, "the whole number of Free *persons*," without any restriction as to race or color, except "Indians not taxed," are to be counted, and "three-fifths of all other *persons*"—again without restriction as to race or color. This, and the provisions of Art. I, Sec. 9 and Article IV, Sec. 2, make it clear that a negro is at least a "*person*," and entitled to all the rights, immunities and privileges of "*persons*," except as specifically pointed out in these or the other sections and amendments where "*persons*" are mentioned. There is nothing within the four corners of the instrument which declares, or even intimates that negroes were not at the time, or might not become, citizens of the United States or any of the several States, or that Articles of Amendment, V, VI, and VII should not apply to them. Article V says "NO PERSON shall be \* \* \* deprived of life, liberty, or property without due process of law" and due process

of law must mean such process as is due alike to all persons.

The whole argument of the Chief Justice is devoted to reading into the Constitution and several Amendments, exceptions, restrictions and limitations that are not expressed, and cannot be implied from anything contained therein. He, then, amiably suggests "If any of its provisions" [*i. e.*, those he has read into the Constitution] "are deemed unjust, there is a mode prescribed in the instrument itself by which it may be amended." How can one amend by striking out something that is not there? How could the language employed in defining rights be made more general and comprehensive than it was? One sample of his reasoning must suffice. He argued that because New Hampshire *expressly* limited enrollment in the militia to "*free white persons*" the makers of the U. S. Constitution must have intended to limit all privileges of citizenship, etc., to "*free white persons*." Many of the early State Constitutions (including that of Ohio) did limit citizenship, enumeration for representatives, etc., to "*white males*." People of ordinary intelligence seem to have understood that if they wished to limit the duties and privileges of citizenship to *white* persons they must use the qualifying word "*white*." In asserting that persons who did not use such qualifying word meant exactly the same as people who did, the Chief Justice announced a new rule of construction which makes the use of language to express ideas quite unimportant.

But faulty and oppressive as were the laws of the United States and erroneous as were the decisions of the Federal Courts, when those Courts pronounced a Federal state constitutional, there were but two remedies open to law-abiding citizens. (1) To get control of Congress and repeal the law, or (2) To elect a President who would appoint suitable persons as Judges of the Supreme Court,



and then ask the Court in a new case to overrule former erroneous decisions, as was done in the Legal Tender Cases.

The agitation over the Fugitive Slave Law on the Western Reserve, while at times threatening lawless or revolutionary procedure, was kept under wise control and resulted in a settled determination to cure the evils of Congressional legislation, Judicial interpretation and Executive enforcement of that hated statute, through the ballot and strictly Constitutional procedure. Southern leaders, foreseeing the inevitable (though deferred) outcome of this growing spirit in the North, hastened the glad day of deliverance, by seceding and making war on the United States. The Western Reserve and the whole Northwest were united in a patriotic and successful effort to save the Union. In the mighty struggle which followed, slavery and all constitutional provisions and Congressional laws intended for its protection, perpetuation and extension, and all pro-slavery decisions of the Supreme Court, were swept away, and North and South became, once more, a free, homogeneous and united people.

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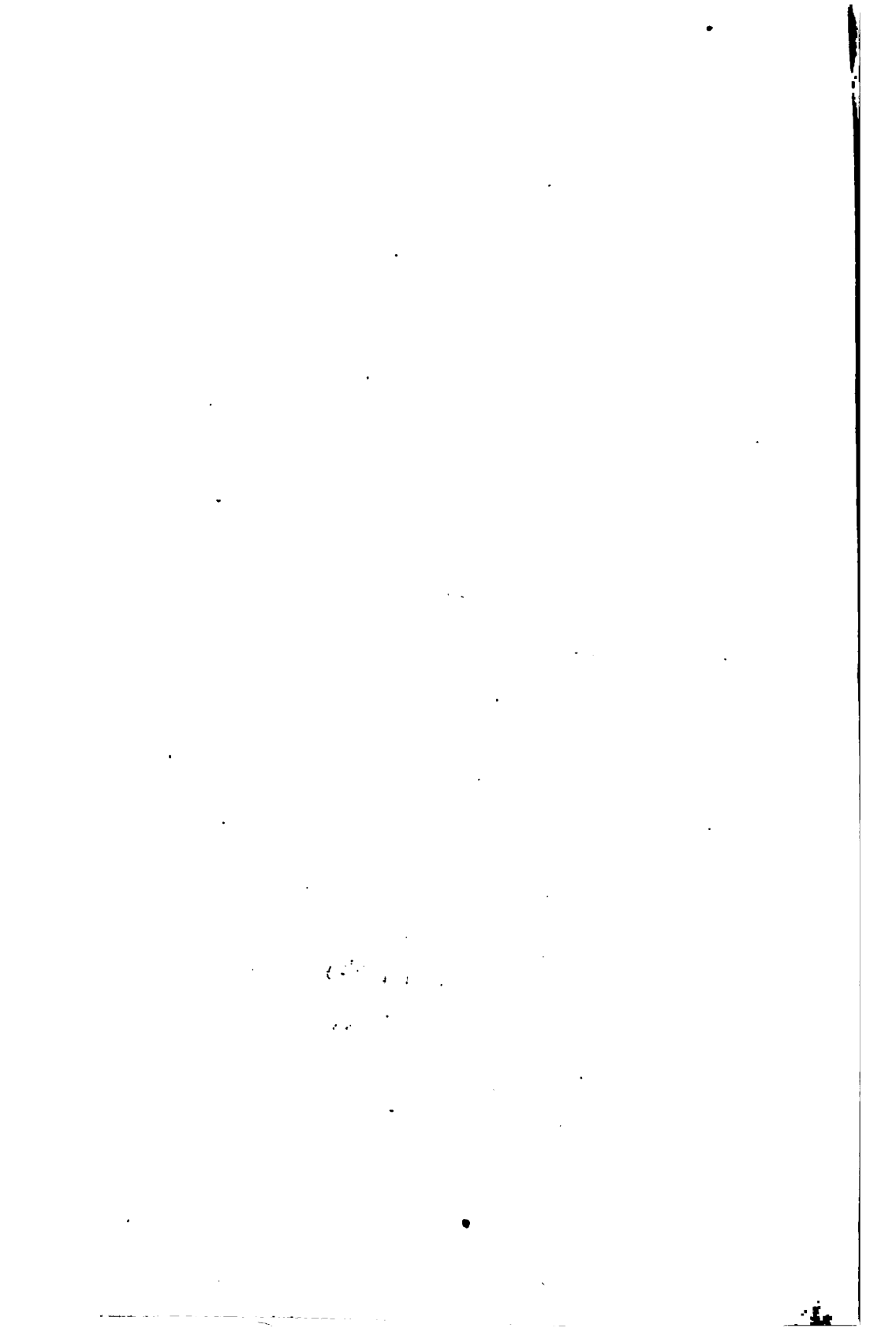














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